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The Nation.

June 7, 1986 $1.25; U.K. 65p

EDITORIAL

THE MEXICO-BASHERS

For years Mexico was an object of ridicule for Americans who find humor in anything attached to a country they have invaded, annexed, exploited, pillaged and turned into a tourist resort. The more Mexican braceros came to pick California lettuce, the more U.S. banks profited from loans to Mexico, the more U.S. companies unloaded dangerous drugs and toxic pesticides on the Mexican market and, indeed, the more Acapulco Gold and subsequent *sinsemillas* were imported to satisfy ravenous demand—the more the source of such bounty was reviled. Familiarity bred contempt, at least on this side of the border. A low point of a sort was reached in 1979, when President Jimmy Carter shocked a Mexican audience with his reference to "Montezuma's revenge." His apology should have signaled a change in U.S. attitudes.

But now along comes a succession of Administration officials, government bureaucrats and Congressional xenophobes to bash Mexico with renewed vigor. Charges of endemic Mexican corruption, drug smuggling and other examples of moral turpitude filled a Senate committee hearing on May 13. Senator Jesse Helms, Under Secretary of State Elliott Abrams and Customs Service chief William von Rabb wielded such a big stick that higher powers—Secretary of State Shultz and Attorney General Meese—had to step in to stroke their Mexican counterparts.

This time there is a different spin to the contempt. Mexico is more sympathetic to Central American independence movements than to Yankee imperialism, is willing to feed America's drug habit and is mired in debt acquired to survive in the U.S. economic system. It is no longer simply a hapless victim but a perceived threat to U.S. power. Plainly what the Mexico-bashers fear—and suspect they deserve—is a new revenge, which is no laughing matter.

LETTER FROM TEXAS
Molly Ivins

FEDERALISM WITH SMOKE AND MIRRORS
Laurence H. Tribe

LIBERTY WHITEWASH
Roberta Brandes Gratz
Eric Fettmann

ADRIENNE RICH
Sven Birkerts

RICHARD/RENEE
Andrew Kopkind

RUDOLPH'S PENSION

THE GOLDEN YEARS OF AN EX-NAZI

ROBERT SHERRILL

While the saga of Austria's favorite Nazi continues, let's take time out to review our government's gentle treatment of a much bloodier war criminal.

I mean Arthur Louis Hugo Rudolph.

Kurt Waldheim really was a dull, unimaginative villain compared with Arthur Rudolph. Although both men were members of the S.A., Hitler's brown-shirted street brawlers, Waldheim was a relatively late joiner—1938. Rudolph's membership was at a much more crucial time—1932, one year before the S.A. and the black-coated elite S.S. helped propel Hitler to power. Likewise, Waldheim's role in the Balkans butchery seems, from the evidence uncovered so far, to have been that of a low-level army bureaucrat. The murders that the U.N. War Crimes Commission charged him with thirty-eight years ago were, by Nazi standards, mere battlefield thuggery. Rudolph's crimes were in a much more creative line of *Werk*. Rudolph was a Nazi yuppie, a born manager, a natural executive, and he would prove his genius in a way that would have a basic appeal to the executive class everywhere: he knew how to increase productivity, even if it meant killing the workers.

Rudolph is believed to have had something directly to do with the death of at least 5,000 slave laborers in World War II. He used up their lives so efficiently that, although he never achieved a status comparable to Waldheim's in Austria and at the United Nations, he did become one of Nazi Germany's, and later one of the U.S. military/space industry's, most honored engineers, as a result of which he now lives in

(*Continued on Page 792*)

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LETTERS.

QUICKIE HISTORY LESSON

Washington

As National Commander of the Jewish War Veterans of the United States of America, representing more than 100,000 American-Jewish men and women who have fought and bled for our country, an organization whose members gave their lives for the United States, I read with shock and outrage the rantings of Gore Vidal in the 120th anniversary issue ["The Empire Lovers Strike Back," March 22].

Vidal, not feeling the slightest need for subtlety or tact, spews his anti-Semitic venom ostensibly at Norman Podhoretz and Midge Decter but, in fact, at all Jews, whom he refers to as "Israeli fifth columnists," living in a "host country."

Vidal, America's self-proclaimed "current biographer," is in dire need of a quickie history lesson. Woven into the fabric of America, long before his family was involved in the Civil War, are the Jews, who came to this country in 1631 from Recife, Brazil. . . .

Ninety years ago on March 15, Jewish veterans of the Civil War formed our organization, then called the Hebrew Union Veterans, to give the lie to canards such as Vidal's. Of the seventy-eight soldiers who met that evening, they had, between them, no less than 218 medals awarded for their part in the battles of that war; those men constituted less than one-third of 1 percent of the Jews who were known to have served. We know of eight Medals of Honor awarded to American-Jewish soldiers who fought in the Civil War.

"Host country"? Apparently not. We would be only too happy to fill in the gaps in Vidal's blatantly biased grasp of American history. As for *The Nation*, we look forward to more responsible and less calumnious writing in the future. *Harvey S. Friedman*

FROM THE MIDDLE EAST

Tel Aviv

From the wilds of the Middle East I read Gore Vidal's disputed piece with much delight. We folks here on the Israeli left, Zionist and non-Zionist alike, are sick and tired of the cheap propaganda, half-truths, historical revisionism and whining about anti-Semitism that the Podhoretzes and Decters disseminate on our behalf. From the Upper East Side they consistently make charitable contributions to the ever-accelerating militarization of the Middle East and do all they can to bring us closer to destruction. Thus, Vidal has done a terrific job.

Yet how appalling is the reaction to his article ["Letters," April 26 and May 3]. It seems that there are many fairly rational people out there who simply lose it when Jews or the Jewish state are at issue. You don't even have to go to Hebron or Deheisha to see the entire population subjected to the arbitrariness of military rule. Just spend a day in Tel Aviv and watch the anti-Arab racism and police harassment of the cheap labor force coming from the West Bank and Gaza. Then talk about liberal democracy. It is the unbelievable success of the Podhoretzes in disseminating selective accounts of Israel, and the reluctance to look for the truth, that brings otherwise rational people to make such ridiculous assertions.

American Jews are so caught up with what they get from Israel's self-styled supporters (Podhoretzes and self-righteous [Arthur] Hertzbergs alike) that they do not realize that being Jewish makes neither them nor the Israeli government perfect or immune to criticism. Judging by the ugly scenes one is exposed to here and the reaction to Vidal's article, there is actually a lot of Jewish "misanthropic dreck." *Yosef Grodzinsky*

'ON THE MORAL FRONT'

Palos Verdes, Calif.

These are my heartfelt comments in connection with *The Nation*'s current debate about the Jews and Israel, sparked by Gore Vidal.

I wish my parents could have died as human beings, instead of being murdered as Jews in Treblinka and Sobibor. I don't hate myself because I survived—how absurd—but I feel sad and angry because we haven't learned a thing. I also still cling to Anne Frank's belief that, in spite of everything, there is something good in human nature.

When I criticize the Jews, it's with the understanding that we are not worse than anybody else, but that our suffering should have made us better. It's understandable, if not unquestionable, that the Jews sought to establish a homeland after the Holocaust. It was also important to show the world once more that the Jews are brave. I felt elated then, but not anymore.

On the moral front the Jews have lost the battle. We should have stood together as one to see that "never again" would human suffering and exploitation be ignored, no matter where. We owed it to ourselves to fight for human justice, for nothing else can redeem the Holocaust. The energies generated to establish territory and transform a wasteland into a little super-state could have been used to inspire the world, not to divide it further. Now, as a result of our self-righteousness, we are one of the big trouble spots in the world, and a new source of anti-Semitism.

The choice is between idealism and cynicism. Why can't we show the world that we've learned something? The decent options are to create a homeland for the Palestinians, to stop doing business with the South African racists and to stop supplying arms and advisers to the murderous regimes in Central America and elsewhere.

Turn around, Jews. Wake up. Help the oppressed, not the oppressors. *Günter Hiller*

'SUCCÈS DE SCANDALE'

New York City

The *succès de scandale* that has developed over Gore Vidal's essay is most relevant to journalistic freedom in the United States. The "Israel right or wrong" crowd, led in this country by the censorious and inquisitorial Norman Podhoretz (and friends), has unleashed an astonishing array of forces to blacken Vidal's name as one synonymous with anti-Semitism and to attack *The Nation* as an irresponsible (and, yes, anti-Semitic!) publication for daring to publish the piece. Indeed, Podhoretz's recent syndicated column "Letting the Anti-Semite Dogs Loose" is a study in intimidation, as well as in the increasingly indiscriminate use of the term "anti-Semitism" against all who deviate from Podhoretzian Zionism. The message is clear: Criticize Israel at your peril!

If the critic happens to be a Gentile, such as Vidal, he is accused of hating the Jews; if the critic happens to be Jewish, such as Noam Chomsky, he is accused of being self-hating. It all amounts to censorship of a very dangerous kind. It is to *The Nation*'s credit that it published the Vidal piece, no matter how provocative the essay may be. And it is to the credit of the American way of life that Vidal continues to be the gadfly who does not prostrate himself before any sacred cow as such. He does not follow a party line, nor has he ever, and it is because of this independence that he is audacious enough to express what has regrettably become the inexpressible in this country concerning Israel and the role of *some* American Jews.

I write this as a Sephardic Jew who is above all, an American. Proud of my American tradition and proud of my Jewish tradition, I recognize in both an essential freedom: that of free speech. Podhoretz and the majority of Podhoretz-style letters you printed attacking Vidal's article represent another tradition, alien not only to American but to Judaism as well.

Edgar R. Menende

IRONY, U.S.-STYLE

White Plains, N. Y.

A long time ago, between the Great Wars, there was a very fine German magazine called *Simplissimus*, whose editor at one time came to the States on a lecture tour. Asked at the end of the tour what he thought of Americans, he said ruefully that there is one thing they simply do not get: irony.

The comment comes to mind because in the letters printed about Gore Vidal's article, only one correspondent, the well-known black journalist Roger Wilkins, grasped the fact that Vidal's piece was neither anti-Semitic nor racist, but a marvelously ironic survey of

(*Continued on Page 804*)

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CONTENTS.

Volume 242, Number 22

LETTERS
778

EDITORIALS
777 The Mexico-Bashers
779 The Leak Mania
780 The Pornhounds
781 States of Terror — *Stanley Diamond*

COLUMNS
782 Uncivil Liberties — *Calvin Trillin*
783 Capitol Letter — *Kai Bird and Max Holland*
784 Beat the Devil — *Alexander Cockburn*

ARTICLES
777 Rudolph's Pension: The Golden Years of an Ex-Nazi — *Robert Sherrill*
786 Letter From Texas: Tough as Bob War and Other Stuff — *Molly Ivins*
788 Anti-cigarette Suits: Federalism With Smoke And Mirrors — *Laurence H. Tribe*
790 Follow-up: Whitewashing the Statue of Liberty — *Roberta Brandes Gratz and Eric Fettmann*

BOOKS & THE ARTS
797 Rich: Your Native Land, Your Life — *Sven Birkerts*
798 Theater — *Michael Malone*
800 Films — *Andrew Kopkind*
802 Music — *Peter Watrous*

Drawings by Monica Incisa

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EDITORIALS.

The Leak Mania

Now that the rehabilitation of Richard Nixon is under way, according to a recent *Newsweek* cover story, it makes sense that a White House committee would seek to revive the plumbers unit, the leak-stopping operation that figured so prominently in the former President's political obituary. Seventies revival and Watergate retro are coming into fashion. High-level officials regularly attack the press, Administration insiders are under investigation and covert action is no longer a dirty word. Washington corruption has overtaken Miami vice as a model for criminal chic: at last count, 111 senior Administration officials have been accused of illegal or unethical conduct since January 1981, and many have been convicted and sentenced or are awaiting trial. How long can it be before President Reagan comes on television to reassure a worried nation, "I am not a crook"?

Nixon's fixation on news leakage was his undoing. The exposure of E. Howard Hunt's White House plumbing shop, after its third-rate burglary attempt at the Watergate apartments fourteen years ago this week, began the investigative process that unraveled the web of chicanery and cover-ups and led to the famous final days. Things are nowhere near that point *chez* Reagan, but the White House is again involved in a furious campaign against the leakers and publishers of embarrassing information. Director of Central

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Intelligence William Casey has threatened five major publications and NBC News under a 1950 espionage law (never before used against the press) for divulging items told to them by government officials, gleaned from public documents and statements, or whispered by Casey's own colleagues in one or another security agency. Secretary of State George Shultz, White House chief of staff Donald Regan and the President have all railed against the news passers and their wide receivers in order to blame the failure or unpopularity of their policies on those who spread the word. And late last month a working group of Administration security advisers delivered a secret memorandum to the White House detailing a plan for stanching leaks which would include lie-detector tests and other surveillance methods eschewed by former chief of staff James Baker, on Shultz's insistence, when the idea was broached three years ago. As so often happens with secret memos, this one was promptly leaked to the press.

Reagan has been disturbed over the years by a number of politically damaging leaks for which he has criticized his disloyal associates and the irresponsible media. His problems with budget director David Stockman, Interior Secretary James Watt, Environmental Protection Agency administrator Anne Burford and Secretary of State Alexander Haig were laid to the press. Lately, the leaks have had a national security cast, which annoys Casey. He accused NBC of aiding the enemy by interviewing Abu Abbas recently and for broadcasting an item on U.S. submarine surveillance of Soviet ports that figured in the spy trial of Ronald Pelton. *The Washington Post*, *The New York Times*, *Newsweek* and other publications were threatened because they reported on intercepted Libyan messages after the bombing c the Berlin disco.

The media have responded that the leaks were of no pai ticular value to the Russians or the Libyans, that the mate rial was public knowledge in any case and that President Rea gan was the biggest leaker of the Libyan messages when h talked about them on nationwide television. But national se curity is obviously not the point of Casey's campaign. He i primarily concerned with secrecy as a policy in itself and as method of governance. Leaks loom large when policy fail: The U.S. intelligence establishment has been stung by series of crimes and blunders that cry out for a scapegoa The foreign affairs establishment is stymied in the Middl East, in Central America, in the great East-West encounte The raid on Libya, far from a foreign policy victory, repre sents an open admission of failure; good diplomats ope doors rather than close them.

Reagan and Casey want to stonewall in their towers c power and rule by handout, which is a tempting form c news management and political control in a troubled time But the Watergate revival works against them. We are sti too close to the great days of Woodward and Bernstein Sam Ervin and John Sirica to forget that an Administratio loses everything when it destroys its credibility.

NEW FACE

At a time when magazines on the left are in short supply, we welcome the arrival of the premier issue of *Tikkun*, a quarterly magazine devoted to a "Jewish critique of politics, culture and society." *Tikkun* draws its name from the ancient prophetic call "to heal, repair and transform the world," and as its editor, Michael Lerner, writes in a founding statement, the new magazine "hopes to provide a voice for those . . . who are not embarrassed to dream, for those Jews and non-Jews alike who are still moved by the radical spirit of the Prophets."

Tikkun aims to join the debate between the liberal and progressive camps in American society, and in particular to invigorate the dialogue among Jews on such topics as the role of women in Judaism, the role of Jews and Jewish ethics in American politics, the direction of Israel and the relationship between American Jewry and Israel. *The Nation* has long sought to broaden discussion of these and related subjects (for a recent and widely misinterpreted example, see the "Letters" column), and so we look forward to *Tikkun*'s contribution.

The Pornhounds

The Attorney General's Commission on Pornog raphy was a conclusion in search of evidentiar window dressing long before it even began writin its final report, due in early July. The portion made available to the press so far indicate that a majority o the commission's members have concluded that pornogra phy does indeed cause violence. No matter that none of th available research supports that conclusion. As executiv director Alan Sears explained, the panel drew on the view of law officers and clergy.

The American Civil Liberties Union, which opposes ef forts to draft stricter anti-porn laws, has predicted that th commission's report, containing detailed descriptions of al manner of smut, will be a best seller when it goes on sale ir July. After all, where else can one obtain such a comprehen sive compendium of the "good parts"—a sort of *Reader's Digest* of the contemporary pornographic *oeuvre*. And th commission is acting in open defiance of the Supreme Court's test of redeeming social and literary value, since the ma terials will be wrenched from context, a technique which, as every schoolchild knows, would make Shakespeare and even the Bible sound like *Fanny Hill*.

We are being flippant about the commission's pre liminary findings because of the ridiculousness of its mis sion; the patent bias of most of its members, notably its chair, a smut-smiting prosecutor; and the confusion of cause and correlation in its research. Sadly, however, the final report could spark a right-wing blitz of legislation in Congress following the President's predictable endorsement of it.

The commission has already had one baneful effect. In

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February a letter on Justice Department stationery signed by Sears was sent to a number of bookstores and magazine wholesalers and retailers, informing them that "the commission received testimony alleging that your company is involved in the sale or distribution of pornography." The testimony in question was that of the Rev. Donald Wildmon, executive director of the National Federation for Decency and a veritable Torquemada of the anti-smut crusade. Not entirely by coincidence, the Southland Corporation, owner of the 7-Eleven chain and one of the recipients of the Sears letter, announced in April that it would no longer sell *Playboy* and *Penthouse*, two of the publications Wildmon complained about in his testimony. Indeed, Wildmon singled out 7-Eleven stores as "the leading retailers of porn magazines in America." Southland denied that it was influenced by Sears's letter, saying that it had suddenly seen the light about the indubitable causal link between pornography and violence. The American Booksellers Association and the Council for Periodical Distributors Associations, however, thought the letter threatened a blacklist, and filed suit in Federal court demanding that Edwin Meese and the commission not distribute any list of retailers who carry *Playboy* and similar publications.

We have no objection to the commission or Wildmon or Women Against Pornography castigating violent porn, as opposed to the erotic variety [see Marcia Pally, "Ban Sexism, Not Pornography," *The Nation*, June 29, 1985]. But there is no constitutional way to ban it, other than by the obscenity laws upheld by the Supreme Court in *Miller v. California*—and we have our doubts about that decision. In any case, the current orgy of violence in the movies and on television is also a disturbing phenomenon, and following the popularity of films like *Rambo* and *The Terminator*, it is on the upswing. The causes of violent crimes, such as rape, are complex and embedded in the larger social context, and simple purgatives like banning images of them won't solve the problem. But it is interesting to note that in Sylvester Stallone's latest hit, *Cobra*, a particularly repellent fantasy about a Los Angeles vigilante cop, the hero prominently displays a photograph of Ronald Reagan in his office. We're not saying that the picture triggered the Stallone character's murderous rampages, but there does seem to be a correlation.

States of Terror

After the indiscriminate bombing of Tripoli, the question again arises: Who are the terrorists?

In the first place, as the major theorists of modern society have acknowledged—and the political leaders in our civilization also know—all states depend on terror to secure their sovereignty and to exercise internal and external controls. This is not a lesson taught in the public schools of any state in the world, although it is one of the simple truths of political science. All states reserve the right to seize persons, confiscate property, collect taxes and declare war without the "consent of the governed." In a basic sense, the state can be said to own the person ultimately. Suicide has been a crime against the state subject to punishment from the very beginnings of civilization, absurd as it may sound. The police officer on the beat has the right to use whatever means available to stop a person from killing him- or herself. The state is said to have a "legitimate" monopoly on violence. A common definition of the state describes it as having a monopoly on violence within its borders.

Modern states—Britain, France, the Soviet Union, the United States, Japan—are now facing a new phenomenon, the terrorist. But who is this terrorist, who may be supported by weaker states or have no state support at all? To begin with, a terrorist is not a guerrilla. Guerrillas almost always are revolutionary fighters within the borders of their own state, and have a specific program for social change should they succeed in capturing the state apparatus. In contrast, terrorism may be viewed as the fallout from the forced modernization, thwarted leadership and failed revolutionary activity throughout the Third World. (Indigenous terrorists in Western countries are usually opposing their government's policies toward the Third World.)

Terrorist acts are often desperate efforts to strike back at megapolitan oppressors who are regarded as historically responsible for the destruction of the terrorists' traditional culture. But terrorism is not blind desperation; it is a new form of "revolutionary" behavior. The cunning of this desperation lies in exploiting a contradiction in contemporary industrial societies: as the machinery of transportation, communication and destruction becomes more centralized, it becomes more vulnerable to being seized and turned against the state. A Moslem from Iran whose parents are peasants, a Lebanese from the Bekaa Valley, the daughter of a Syrian shopkeeper, can maneuver themselves into a confrontation with the leadership of the feared and despised dominant secular power. By capturing a plane, they can gain the attention of the entire world, magnified by the media and by the wounded self-image of the power under attack. They can then engage, if momentarily, in a dialogue with government figures whose power and prestige far outweigh their own. And even if they are killed, they have nonetheless made a statement in the global dialogue of power.

But the industrialized nations refuse to understand that terrorism is the result of their aggression against all forms of society that deviate from their standards and values. It cannot be stopped by the eradication of Col. Muammar el-Qaddafi or by repeated bombings of Libya or any other Arab state.

The forms of terrorism are likely to ramify in the future and cause far greater damage than has already been inflicted. The contradictions of highly technological societies can be exploited almost endlessly. A suitcase containing a nuclear weapon can destroy any city in the West. Central water supplies can be poisoned. Suicide attacks on industrial or government installations can be made. Against this there is no protection, not even wider destruction of the traditional societies that harbor the terrorists.

Interestingly, after the attack on Tripoli, Qaddafi predicted that the anticipated wave of terrorist attacks in

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Western Europe would be the work of the C.I.A. or the F.B.I. Because this sort of conspiratorial, and provocative, behavior is not unknown in the recent history of intelligence cadres in the Western states, Qaddafi had a point—but one that he may never have intended. He helped confuse the boundaries between the good guys and the bad guys and reinforced the suspicion most people have that Western governments do engage in "illegitimate" acts of violence. Perhaps he was inadvertently saying that although some Arabs may be terrorists they are overshadowed by the states of terror that control the planet. And in this, unfortunately, there is a nuclear truth.

STANLEY DIAMOND

Stanley Diamond, editor of Dialectical Anthropology, *is the anthropologist and poet at the New School for Social Research.*

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CALVIN TRILLIN

How do you think Fidel Castro feels now that he never gets blamed for anything anymore? How do you think he feels seeing Col. Muammar el-Qaddafi getting blamed for everything? I'll tell you how I think he feels: I think he hates it. I think we finally hit him where it hurts.

It used to be that whenever peasants in some Central American country started shooting back at the generals, the State Department said that Fidel Castro was exporting revolution. Drug problems in South Florida? Castro was to blame. Unrest in Africa? Castro did it.

Everything was blamed on Castro. Mud slides in California. The fact that you can't buy a decent tomato anymore. Was there an exceptionally high pollen count in Massapequa, Long Island, one day? It was Castro, exporting sneezes.

All of this gave Castro the sort of exalted status I still associate with a mischievous schoolmate of mine named Odie Scroggins, master of the MIRV spitball. Odie's reputation for wicked pranks was so firmly established that he was routinely blamed for any atrocity visited upon the unfortunate Miss Hoffmeister in Latin class, even on those occasions when he could have proved, if he had chosen to, that he spent the entire school day at Waldo Tap & Billiards.

Think of what it must have been like when Castro walked into a room filled with other heads of state—say, at a conference of the Organization of Neutralist Yankee-Bashers.

"Hey, Fidel, the Yankees were really mad at you when the steel industry in the industrial Midwest collapsed," the other Yankee-bashers would call out. "Hey, Fidel, you sure made them squeal when you did that drought in West Texas." Castro would smile knowingly, and wave in acknowledgment, and secretly wonder how you'd do a drought.

In those days, whenever his own people seemed in a rebellious mood over something like the shortage of consumer goods—Cubans, who have always been known as snappy dressers, hated standing in line to buy those clunky Czechoslovak shoes—Castro could distract them by saying that the Yankees had finally got so mad at him that they were going to invade. Then everyone would get into uniform and go dig trenches for a while. After a couple of weeks most Cubans would begin to think that Czechoslovak shoes were at least snappier than combat boots, and that would be the end of the rebellion.

Can you imagine the response these days if Castro were to tell the country that the Americans were so mad at him they might invade? "Get serious, Fidel," someone would say. "They might not even remember your name. And listen, while we're on the subject, do you think that just once you might be able to import shoes from a country where they're not under the impression that the shape of the human foot is a perfect square?"

When he's with other heads of state now, Castro must be in the position Odie Scroggins would have been in if the school authorities had suddenly quit blaming him for everything: we would have figured that he was angling to get Miss Hoffmeister to write him a recommendation letter for the fender-repair program at Vo-Tech.

I can just imagine Castro these days at a conference of the Organization of Neutralist Yankee-Bashers. One of the old-time Yankee-bashers puts his arm around Castro and says: "Listen, Fidel, we all understand. You have to watch your step. Those Yankees could crush you like a gnat."

"But I'm exporting just as much revolution as ever!" Fidel insists. "I even sent more sneezes to Massapequa!"

"The Yankees were really ticked off at Muammar for that last drop in the stock market," the old-timer says, as if Castro had not spoken.

"I deserved the blame for that," Castro says. "And also the flash flood in West Virginia."

The old-timer smiles, and says, "Nobody can do a flash flood, Fidel." Then he nearly snaps to attention. Col. Muammar el-Qaddafi has just walked into the room.

"Hey, Muammar, they were furious at you about the fall of the dollar against the yen," one head of state calls out, as Fidel chomps viciously on his cigar. "Boy, you really got their goat with that flash flood in West Virginia."

"I thought you said nobody could do a flash flood," Fidel says to the old-timer, but the old-timer doesn't seem to hear.

"The Yankees blame Muammar for everything," the old-timer says, his voice filled with admiration. "He could get attacked any time."

And, the way I imagine it, he does get attacked, just a few days later. Fighter planes dive so close to Qaddafi's tent that he can read their markings. The planes have Cuban markings. Fidel Castro sent them.

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CAPITOL LETTER.

KAI BIRD AND MAX HOLLAND

■C.I.A. Police Training

In 1970, Senator Tom Harkin, then a Congressional aide, achieved momentary fame for conning his way into South Vietnam's infamous political prison at Con Son Island, known for its "tiger cages." His photographs of tortured Vietnamese detainees appeared in *Life* and called attention to a little-known program run by the Agency for International Development and the C.I.A.: the Office of Public Safety (O.P.S.), which trained foreign police officers. The South Vietnamese officers running the tiger cages were alumni of this program. Harkin was elected to the House of Representatives in 1974, and that same year Senator James Abourezk sponsored a law that abolished the O.P.S.

By that time 10,700 young foreign police and military officers had taken O.P.S. courses in preparation for careers in their home countries. Through a Freedom of Information Act request, we have obtained a list of the names of every officer who participated in the program in the United States, including those who were sent to the International Police Services school (I.P.S.), which the C.I.A. ran in Washington.

Last January, under the guise of "antiterrorism," Congress authorized the Administration to spend more than $4 million for police training in El Salvador. This month it will consider a measure to lift all restrictions on funding of foreign police training and to provide $21 million for that purpose in Central America. Before doing so, Congress should consider how many of the Central American officers that this country trained in the 1960s and 1970s subsequently became involved in death squad activities.

According to the Pike committee report, published by the House Select Committee on Intelligence in 1976, the I.P.S. was used to evaluate "foreign cadets for pro-U.S. orientation, which might later enable C.I.A. to recruit them as intelligence assets." The course work included riot control, fingerprinting, surveillance and interrogation. Presumably as part of their study of terrorism, some students even learned how to make homemade bombs. (For a more detailed description of the O.P.S. program, see A.J. Langguth's definitive book, *Hidden Terrors*, and a forthcoming report from the Washington Office on Latin America.)

In 1969, Lieut. Col. Roberto Mauricio Stabén left El Salvador to take a three-month course at the International Police Services school. What did Stabén do with this training? In 1980 he was arrested and charged with plotting a right-wing coup with Col. Roberto D'Aubuisson, another graduate of the O.P.S. Papers found in Stabén's possession implicated both men in the March 1980 assassination of Archbishop Oscar Arnulfo Romero. Subsequently he became executive officer of a cavalry unit that *The Washington Post*'s Christopher Dickey reported was "responsible for patrolling—if not contributing to—the famous death squad dumping ground at El Playon a few miles from its headquarters."

More recently Stabén was arrested by the Salvadoran government in a highly publicized crackdown on a kidnapping ring of army officers. Posing as leftist guerrillas, the officers extorted as much as $4 million over the past three years from five local businessmen. The Reagan Administration cited the arrests as evidence of the regime's willingness to discipline the military. Last month, however, Stabén was released by President José Napoleón Duarte, allegedly for lack of evidence.

Stabén and D'Aubuisson were both protégés of José Alberto Medrano, founder of the dreaded Orden, or Democratic Nationalists Organization. Medrano is also listed as a graduate of the O.P.S. program. Under his supervision Orden killed thousands of Salvadorans, and Medrano himself was implicated in the murder of a wealthy businessman in 1971. He was assassinated last year on a San Salvador sidewalk. Another Medrano protégé, Lieut. José Antonio Castillo, who attended the I.P.S. in 1969, was later promoted to head the National Guard's Section of Special Investigations, which helped organize the death squads.

In Honduras another I.P.S. graduate, Capt. Alexander Hernandez, has played a central role in both death squad activities and the war against Nicaragua. As commander of the "Special Investigations" squad under the repressive rule of Col. Gustavo Alvarez, Hernandez was linked to dozens of disappearances in the early 1980s. In his book, *With the Contras*, Dickey writes, "The Hondurans most involved with the disappearances were the ones, like Alexander Hernandez, who were most involved with the contras." Dickey calls Hernandez the "key liaison between Alvarez and the day-to-day operations of the Secret War" waged by the Nicaraguan *contras* based in Honduras.

Earlier this year *The New York Times*, citing U.S. Embassy officials in Honduras, reported that the C.I.A. was "providing training and advice in intelligence collection" to Hernandez's unit "as part of a program to cut off arms shipments from Nicaragua to leftist rebels in Honduras and El Salvador." One diplomat told *The Times* that C.I.A. agents in the field knew about the disappearances and "looked the other way." At least three high-ranking *contra* officers have received police training, according to a forthcoming report by Congress's Arms Control and Foreign Policy Caucus. Capt. Juan Alcibiades Espinal, who got his instruction from the U.S. Army, was on the *contra* general staff until late in 1983, when he was forced to retire by the C.I.A. Espinal and Capt. Ramon Morales, another former officer of the National Guard trained by the O.P.S., were forced out with Maj. Emilio Echaverry when the C.I.A. decided all three men had misappropriated *contra* funds. Another officer who received police training, Edgar Hernandez, was G-2 chief of intelligence for the *contras* until he died of a heart attack in 1983.

The Administration's contention that U.S. training will transform Central American police officers into the kind of cops seen on *The Andy Griffith Show* is a sick joke. "O.P.S. provided graduate training for the terrorist network that continues to plague Central America," says Harkin.

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BEAT THE DEVIL.

A Big Hand for the Homeless

I wish I could feel better about stunts like Hands Across America. The implied sense of national concern is mostly bogus and of benefit to President Reagan; the social aesthetic of the strung-out line is reminiscent more of Christo than of the Hunger Marches of the 1930s; politics becomes series rather than nexus, image rather than process; and—as in a medieval banqueting hall—everyone is joined in a celebration of their differing social and economic situations, which are ratified, rather than challenged, by the act of holding hands and demanding nothing.

Should Nicaragua Sign?

During the past couple of weeks factions in the Reagan Administration have been furiously debating the merits of the draft Contadora treaty now being considered by the government of Nicaragua and by the four other prospective signatories in Central America. The treaty is purportedly designed to reduce force levels and the role of outside military advisers, foster democracy and diminish internal and external sources of tension in the countries involved.

On May 20 the press carried reports of a Pentagon document stating that the Nicaraguans would be likely to violate any such treaty and that the situation could be retrieved only by U.S. intervention with at least 100,000 troops. The next day the State Department riposted, ridiculing the Pentagon's analysis. Supporters of Nicaragua are now trying to disentangle the positions, some perhaps surmising that it would be to Nicaragua's advantage to sign the treaty.

But would it? Consider the matter first from the vantage point of the domestic U.S. political agenda. On April 11, in the wake of the House rejection of Reagan's $100 million military aid package to the *contras*, U.S. special envoy Philip Habib sent a letter to Representative Jim Slattery, designed for circulation throughout Congress, which seemed to pledge that if a Contadora treaty was signed by all relevant parties, the United States would stop funding the *contras*. This was welcomed by many, across the political spectrum, as evidence of a major shift in U.S. policy. But only a congenital romantic could come to such a conclusion. The context of Habib's remarks was (a) the House rebuff to Reagan and (b) severe internal division among the *contra* forces, combined with the preponderant view in the United States that these *contras* are militarily ineffective, politically primitive and, in large measure, criminal in disposition. The Habib letter could therefore be construed as an attempt to secure the Administration breathing space while appropriate supervisors from the C.I.A. and the National Security Council urgently try to remodel the *contras* into something palatable to Democratic "moderates" in the House and to the editors of *The New York Review of Books*.

The "best-case scenario" for the Reagan Administration would therefore be a *contra* rehab, as has just been carried out in Miami, combined with Nicaraguan refusal to sign a Contadora treaty. In such an event Congress would instantly vote through the $100 million and probably more besides. Nicaragua would be pilloried in the mainstream media for its intransigence.

But now consider the treaty itself. What would Nicaragua be signing, and what would be the consequences if it did so? In September 1984, Nicaragua stunned the United States by accepting a draft of the treaty that would have mandated the Sandinistas to expel all Soviet bloc advisers, stop all imports of Soviet weapons, end all aid to the F.M.L.N. in El Salvador, admit a verification commission with powers of on-site inspection, reduce its army and dicker with the internal opposition.

Ratification of this draft treaty would have been most disagreeable to the United States which, under its terms, would have had to stop supplying the *contras* and maintaining bases or conducting military exercises in Honduras. By October 30, 1984, after exerting enormous pressure on its clients in Central America, the Reagan Administration, in a National Security Council memo, confided that the danger had passed: "We have trumped the latest Nicaraguan/Mexican efforts to rush signature of an unsatisfactory Contadora agreement." Of course the agreement became "unsatisfactory" only after Nicaragua agreed to it.

The latest draft of the treaty was presented on September 12, 1985. It caters to many of the objections raised by the United States in the wake of Nicaragua's diplomatic coup of a year earlier. Nicaragua's concessions in negotiating this draft have been scandalously ignored or misreported in the U.S. press, even though—in contrast to the 1984 version—the draft lets the United States have both its exercises and its bases in Honduras.

Under present formulae in the treaty, factoring in G.N.P. and population, Nicaragua would have to reduce its army from 62,850 soldiers to half that number. By forcing its clients in Honduras, El Salvador and Costa Rica to be adamant on troop reduction, the United States can effectively scuttle the negotiations and then blame Nicaragua—the only country in the region facing the realities of day-to-day attack—for refusing to compromise.

What is the United States actually offering? The famous Habib commitment is hedged with fine print and can be disavowed in an instant on the grounds that Nicaragua has violated the spirit or the letter of Contadora. The United States has consistently refused to be bound by the provisions of the Contadora treaty and, since it would be operating outside the verification procedures established by such a treaty, would be free to invent some Nicaraguan infraction and promote an invasion. The United States could establish its own interpretation of what "internal reconciliation" in Nicaragua should consist of, demand that the Sandinistas permit Arturo Cruz to become part of the government forthwith, and then sponsor an assault on the "mad dog" regime.

There are, finally, the unalluring lessons of history. The Pentagon's swipe at Contadora cited the dangers of negotiating agreements with "Communist belligerents." With matchless gall the Pentagon document mentioned Commu-

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ALEXANDER COCKBURN

nist "infringements" of the Geneva Accords of 1954 and also of the 1973 Paris Agreements on Ending the War and Restoring Peace in Vietnam. Even more ludicrous was the sight of Leslie Gelb, in *The New York Times* for May 20, obediently repeating these charges of infringements. Gelb should know better, particularly since, in an earlier phase of his career, he supervised preparation of the Pentagon papers. It was the United States that declined even to register oral assent to, let alone sign, the Geneva Accords of 1954, which called for elections throughout the whole of Vietnam within two years. In direct contravention of the purpose of the Accords, the United States sought statehood for its puppet regime in the south of Vietnam, thus inaugurating U.S. intervention.

Nineteen years later, in 1973, the Paris Agreements stipulated that the South Vietnamese be free to exercise their right of self-determination, recognizing two parallel and equivalent South Vietnamese "parties"—the Provisional Revolutionary Government (formerly the N.L.F.) and the U.S.-backed Government of Vietnam—then move toward reconciliation and eventual reunification with the North. The Nixon Administration interpreted this to the U.S. media, and hence to the populace, as recognition of the sovereignty of the G.V.N. as the "sole legitimate government in South Vietnam." To this day the version promoted by Kissinger for domestic consumption, totally at variance with the actual Agreements, is the one accepted by the U.S. media.

On such evidence the Nicaraguans cannot expect the United States to honor the spirit or the letter of any treaty, or the press to raise a commotion about the bad faith of any U.S. Administration.

On May 26 came a telling indication of such bad faith. According to an Associated Press story in *The Boston Globe*, the State Department announced a "one-word error" in the drafting of the Habib letter. The original sentence read, "We interpret these provisions [of the draft Contadora treaty] as requiring a cessation of support to irregular forces and/or insurrectional movements from the date of signature." The last word of that sentence has been changed to "implementation," which means that the United States could go on supplying the *contras* until it unilaterally determined that Nicaragua had implemented the agreement.

Given these auguries of U.S. intentions, Nicaragua would most certainly be justified in refusing to sign a Contadora treaty and in counting on the vigorous backing of its supporters around the world if it chooses to do so.

Footnote: A useful guide to the present status of Contadora negotiations, on which I drew here, is the May 1986 report from the Center for International Policy in Washington, called "Contadora: Under the Gun," by Jim Morrell and William Goodfellow. For an account of the Geneva Accords, see George McTurnan Kahin and John W. Lewis's *The United States in Vietnam;* and for the distortion of the Paris Agreements, see Noam Chomsky's *Towards a New Cold War.*

The Likes of Sobran

William Buckley, editor of *National Review* and no slouch at imputing racism to others, such as myself, may wish to have a serious word with his columnist Joseph Sobran. On May 13 *The New York City Tribune*, a Moonie newspaper, carried an article by Sobran in which he observed:

> Our ethnic etiquette makes our ethnic problems pretty nearly insoluble. . . . I know of only one magazine in America that faces the harder facts about race: a little magazine called *Instauration*. . . . [It is] an often brilliant magazine covering a beat nobody else will touch, and doing so with intelligence, wide-ranging observation and bitter wit. It is openly and almost unremittingly hostile to blacks, Jews, and Mexican and Oriental immigrants.

Quite a testimonial. *Instauration* (the word means "renewal") is a monthly looking somewhat like *The New Leader*, published by "Howard Allen Enterprises" out of a box number in Cape Canaveral, edited pseudonymously, according to Sobran, and carrying unsigned articles. Its sense of humor recalls *The American Spectator* and *The Dartmouth Review*. The January 1982 issue had a story titled "Rev. Jerry Falwell—Majority Renegade of the Year." The word "renegade" is explained by Falwell's companion in the accompanying photograph, Menachem Begin. As Sobran said, the magazine doesn't like Jews. An article in the same issue announced: "We are pro-abortion, despite the aesthetic horror of it, because it is the only effective way to cut down on nonwhite proliferation, both here and abroad. Unfortunately, a greater proportion of whites in this country practice abortion than blacks."

Instauration for February 1984 carried a reproduction of Sully's painting of a blond boy with a hat, with the line, "In Praise of Fair Children." The June issue of that year hailed the war criminal Archbishop Valerian Trifa. The following year, in June, an article denounced the Heritage Foundation and *Policy Review* for being run by Jews ("most of them without any conservative identity or credentials. The table of contents exudes such names as Robert W. Kagan, Midge Decter, Oscar Handlin . . ."). Burton Pines, Heritage vice president, is singled out as a Jew, and the foundation's director, Ed Feulner, is identified as being the husband of "the former Miss Linda Leventhal."

Sobran's modesty in failing to disclose the fact is understandable, but the September 1985 issue of *Instauration* carried a three-page article on him, titled "The Brave Pen of Joseph Sobran," in which he was praised for his support of Reagan's visit to Bitburg: "The man has repeatedly defended white racial pride and solidarity, despite the mounting campaign to get him." In the same issue of *Instauration* we find racist cartoons of "Marv," a Jew, and "Willie," a black. Marv is saying: "Not everyone at the Last Supper was Jewish. I am working on a book that will prove Judas was a goy." This is the brilliance, intelligence and bitter wit Sobran recommends to his readers.

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ARTICLES.

LETTER FROM TEXAS

Tough as Bob War And Other Stuff

MOLLY IVINS

Austin

We've just survived another political season largely unscathed. I voted for Bobby Locke for governor: he's the one who challenged Col. Muammar el-Qaddafi to hand-to-hand combat. In the Gulf of Sidra. On the Line of Death. At high noon. Next Fourth of July. "Only one of us will come out of the water alive," said Locke. Locke thinks the trouble with America is that we've lost respect for our leaders and this would be a good way to restore same. Me too. Besides, you should have seen the other guys.

The Republicans had a Congressman running who thinks you get AIDS through your feet. That's Representative Tom Loeffler of Hunt, who is smarter than a box of rocks. His television advertisements proudly claimed, "He's tough as bob war" (bob war is what you make fences with), and also that in his youth Loeffler played football with two broken wrists. This caused uncharitable persons to question the man's good sense, so he explained he didn't know his wrists were broken at the time. Loeffler went to San Francisco during the campaign to make a speech. While there, he wore shower caps on his feet while showering lest he get AIDS from the tile in the tub. He later denied that he had spent the entire trip in his hotel room. He said: "I did walk around the hotel. I did see people who do have abnormal tendencies. I'd just as soon not be associated with abnormal people." If that's true, what was he doing running for governor of Texas?

Perhaps Loeffler's most enduring contribution to Texas political lore was a thought that seemed to him so profound he took to repeating it at every campaign stop and during televised debates as well: "As I have traveled around this state, many people have said to me, 'Texas will never be Texas again.' But I say they are wrong. I say Texas will *always* be Texas." Hard to add anything to that.

On the Democratic side, the nerd issue was dominant. The ugly specter of nerditude was raised by A. Don Crowder, a candidate from Dallas. Crowder's platform consisted of vowing to repeal the no-pass, no-play rule on account of it has seriously damaged high-school football and is un-American, un-Texan and probably communist inspired. No pass, no play was part of the education reform package enacted last year by Governor Mark White and the State Legislature. If you don't pass all your school subjects, you can't participate in any extracurricular activities, including—football. Quite naturally, this has caused considerable resentment and could cost White the governorship. So A. Don Crowder holds this press conference in which he says the reason Mark White favors no pass, no play is because White was "one of the first nerds in Texas." As evidence, Crowder produces White's high-school annual, and there it was: the guy was zip in extracurricular activities in his school days. We're talking, not even Booster Club. Not Glee Club or Stage Crew. Not even the Prom Poster Committee. According to Crowder, this explains "the psychological reasoning behind White's dislike of football."

There were headlines all over the state: "Gov. White Called 'Nerd' By Yearbook Wielding Foe." "Nerd Charge Merits Scrutiny." Meanwhile, we tracked down Donnie Crowder's high-school annual and guess what? He was captain of the football team. Played baseball. Ran track. And was in the French Club. French Club! Need I say more? *Quel fromage.*

White's initial response to this slanderous aspersion was to whine about how tacky it was for Crowder to be so ugly right after the explosion of the shuttle Challenger. Nerd City. Then his campaign manager tries to pull it out by saying, So the guy was not real active in high school—but he was super-involved in after-school activities at the Baptist Church. Nerd! Nerd! Finally White gets his act together, comes out and says, Look, I grew up poor. His daddy had an accident when the guy was just a sophomore and he couldn't work after that, so the guy spent his high-school years working summers and after school. While A. Don Crowder was in French Club, doubtlessly conjugating highly irregular verbs with busty cheerleaders over the pâté and vin rouge, our Governor was out mowing lawns, frying burgers and pumping gas to help his dear old silver-haired mother. Great stuff. Besides, Bubba never joined no French Club.

Marko Blanco, as we call him in South Texas, will meet former Governor Bill Clements for a rematch in November. Clements was defeated by White four years ago on account of he's an awful grouch. Grumpy versus the Nerd—what a match-up.

Also contributing to the political festivities of late is that peerless, fearless commie-hater Charlie Wilson of Lufkin. When folks started calling from around the state, and indeed the nation, a month or so back saying,"My God, do you realize there's a Texas Congressman over in Afghanistan killing Russians? And he's wearing black monogrammed cowboy boots, and he's got a former Miss World with him?"—I, of course, replied, "Must be Charlie Wilson." What else can you say at a time like that?

It's possible to get used to Charlie. He has a certain charm. When I called him to verify some of the more bloodthirsty quotations attributed to him in *The Houston Post*'s account of his latest trip to the Afghanistan border, the first thing he said was, "The only thing those cocksuckers understand is hot lead and cold steel." I was especially pleased that he took his lady friend, Annelise Ilschenko, a

Molly Ivins writes a political column for the Dallas Times Herald.

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ormer Miss World U.S.A., along on the Afghan jaunt. According to *The Houston Post*, she is a "dark-haired and loe-eyed beauty," and you hardly ever find a good case of loe-eyed beauty in the newspapers anymore. *The Post* said, '[She] went everywhere with Wilson, not even flinching as he sank her high-heeled white leather boots into the thick rown ooze [of] Darra's main street." No sacrifice is too reat when you're fighting for freedom.

Charlie told *The Post* reporter he went over there hoping o "kill Russians, as painfully as possible." Myself, I think t had more to do with an observation he made after he got ack: "Hell, they're still lining up to see *Rambo* in Lufkin." atriotism is always in good smell in East Texas. The night l Presidente started bombing Libya, the deejay at Benny 's, a honky-tonk in Lufkin, made all the patrons stand n their chairs and sing "The Star-Spangled Banner." He aid if anybody refused to do it, "We'll know you're a comnie faggot." Of course, they do the same thing at Benny B's or David Allan Coe's song "You Never Even Called Me By Ay Name." Sometimes living in East Texas can be a real hallenge.

Living anywhere in Texas is getting to be a challenge as he price of oil slides gracefully toward single digits. Texasashing seems to be a popular new national pastime. "Let 'Em Rot in the Sun" said a cordial headline in *The New Republic*. Some Northern papers ran stories on our oil woes with heads the likes of "Sorry About That, J.R." I don't see that we've got any cause to whine about this vein of snottiness: some of the Bubbas did put bumper stickers on their pickups a few years back that said, "Let the Yankee Bastards Freeze in the Dark." Somehow I forebode that Yankees going and doing likewise is not going to teach Bubba any manners. The rest of us down here been having poor luck at it for a long time.

I would point out, though, that Texas is not a rich state, never has been. Never even made it up to the national average in per capita income until the tail end of the oil boom, and then we slid right down again. Poverty level here is always among the nation's highest and, according to a recent study by a team from Harvard University, Texas has more counties beset by hunger and malnutrition than any other state. Our second-biggest industry after oil is agriculture, and you've maybe read something about how it's going for farmers these days. Citrus crop in the Rio Grande Valley was wiped out by a freeze three years ago. Now they got drought and 40 percent unemployment, and the peso is still going down. Our banks had their money in oil, agriculture and Mexico. We're losing a lot of banks.

There is no social support system for the poor in Texas. Adults get nothing; children get $57.50 a month. Bubba's got a beer gut he can let shrink some and not be hurting, but almost half the children in this state are black or brown and they have no cushion. If Eddie Chiles goes broke, it's Don't Cry for Me Texarkana; John Connally and Ben Barnes on hard times, search me for sympathy; and I could give a shit about J.R. But that's not who's hurting.

Good thing we've still got politics in Texas—finest form of free entertainment ever invented. □

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ANTI-CIGARETTE SUITS

Federalism With Smoke and Mirrors

LAURENCE H. TRIBE

In the past few years a wave of lawsuits has crashed against the shores of our beleaguered legal system. Cigarette smokers have gone to court, suing tobacco companies for injuries allegedly caused by years of a deadly habit. If the smokers win, cigarette makers may be held accountable for an estimated $80 billion a year in smoking-related losses; cigarette prices may shoot up to $3 a pack, radically reducing smoking and saving millions from premature death.

A major issue in the lawsuits involves the familiar warnings on cigarette packages and in cigarette advertisements. Plaintiffs say that the warnings did not make them adequately aware of the dangers or of the risk of contracting the particular diseases they developed. They also claim that industry advertisements directly challenged or more subtly undercut the warnings, encouraging smokers to disregard health risks. Whatever the merit of those novel legal theories, unless the Supreme Court rules otherwise, plaintiffs could be deprived of the chance to raise them in court.

In a key ruling in April, the U.S. Court of Appeals for the Third Circuit, invoking the doctrine of "implied Federal pre-emption," ruled that the estate of lifetime smoker Rose Cipollone could not sue tobacco companies on the basis of the new legal theories. Two weeks later a Federal District Court in Boston came to the opposite conclusion. It will soon fall to the Supreme Court to decide which ruling was correct. Unless the Court reverses the Third Circuit, we will witness a major departure from established principles of federalism, representing yet another in a seemingly endless string of legal and political victories for the tobacco industry.

The basis for the appellate court's decision—"pre-emption"—is an idea firmly rooted in the Constitution: Article VI's supremacy clause makes Federal law the "supreme law of the land." Thus, when a Federal law and a state law directly conflict, the Federal law controls. What this means when the conflict is more oblique has been the subject of debate for decades. And the pre-emption idea is locked in a tug of war with another basic constitutional concept: the preference in our Federal system for state governments to have broad powers to make and change their legal policies.

So what does all of this have to do with smoking, lawsuits and cigarette packages? It seems that the 1965 and 1969 Federal laws that required package warnings (and made the Surgeon General famous) also provided that "no statement relating to smoking and health [other than the federally specified warning] shall be required" on cigarette packages, and that "no requirement or prohibition based on smoking and health shall be imposed under state law with respect to the advertising or promotion" of cigarettes. As a result, no state could pass a law ordering cigarette makers to put additional warnings on their packages. Nor could any state force cigarette makers to include a skull and crossbones in their advertisements.

But the tobacco industry takes this argument one significant step further. It contends that the legislation also prohibits individual lawsuits based on state tort law complaining about the inadequacy of the warnings or about the cigarette ad campaigns. The industry says that such suits, if successful, would effectively establish a state "requirement" that manufacturers provide additional warnings. Because states cannot directly require the industry to provide more warnings, cigarette makers argue, they cannot hold the companies liable for failing to do so, or for running advertisements that might have tended to undermine the warnings' effectiveness.

However, a liability judgment in a state or Federal court is hardly the same as a requirement that the industry do more than the Federal warning law mandates. If an adequate warning would scare off too much business, the cigarette companies could choose to continue to meet only the Federal minimum and pay damage awards to injured smokers for generations to come. The decision to pursue or reject this policy—to choose whichever path is most prudent—is up to the industry. In either case, as long as it continues to meet the requirements of Federal law, it is free to meet its state-imposed obligations to its customers as it sees fit.

If a state court finds that the industry has not fulfilled its responsibilities to warn consumers, there is no reason for the industry not to take its licking as the rest of American businesses do. In countless other areas manufacturers are first held responsible for the damage that they cause and then are left to choose between paying to increase product safety, paying to increase warnings and restrain their ads, or paying damages to injured consumers. Did Congress mean to exempt the tobacco industry from the same set of pressures and limited options? Did it mean to indemnify this industry from all responsibility for the costs its product imposes on our health care, welfare and tax systems? Laws may be made in smoke-filled rooms, but rarely does Congress grant the exemption from the laws of economics that the cigarette industry claims.

Just what Congress meant when it enacted the pre-emption clause of the cigarette labeling act has troubled the courts. Plaintiffs argue that if Congress had intended to ban individual damage actions, it would have said so, as it did when it enacted laws on copyright and on pensions (Employee Retirement Income Security Act). Similarly, the tobacco companies contend that if Congress had meant to leave the right to bring tort suits intact, it would have said so, as it did when it included "savings clauses" in laws concerning employee safety (Occupational Safety and Health Act) and mineral lands leasing (such as the Surface Mining Control and Reclamation Act). Both arguments demonstrate the manifest dangers in trying to discern the tune when listen-

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ng to the sounds of Congressional silence. But, as even the ourt for the Third Circuit noted, the benefit of the doubt in ur Federal system is tilted against Federal pre-emption of tate law: the symphonic tie normally goes to the plaintiffs.

Much of the legislative history behind the labeling acts is mbiguous, but a recurring chord in the debates is problematic for those who argue that Congress intended to pre-mpt all warning-related lawsuits. During the 1965 and 1969 lebates, representatives and senators struggled over exactly vhat impact the warnings might have in suits against igarette companies. Some lawmakers suggested that warnngs could make recovery impossible, inasmuch as consumers so warned "assumed the risk" of smoking; others rgued that the warnings would have no impact. Whichever iew is correct, if Congress had meant to bar warning-elated litigation, that discussion would never have taken lace. The issue of how well the prescribed messages warned consumers would arise predominantly in lawsuits challenging the adequacy of the warnings. Even if legislators were nly succumbing to cigarette industry demands when they "forced" warnings on tobacco makers—a charge that some critics leveled during the debates—Congress hardly thought hat it was barring warning-related lawsuits altogether.

To be sure, this argument about Congress's intent does not put the industry's smoke-and-mirrors federalism to rest. For even if Congress did not explicitly pre-empt lawsuits against cigarette companies, the industry says, Congress did so implicitly.

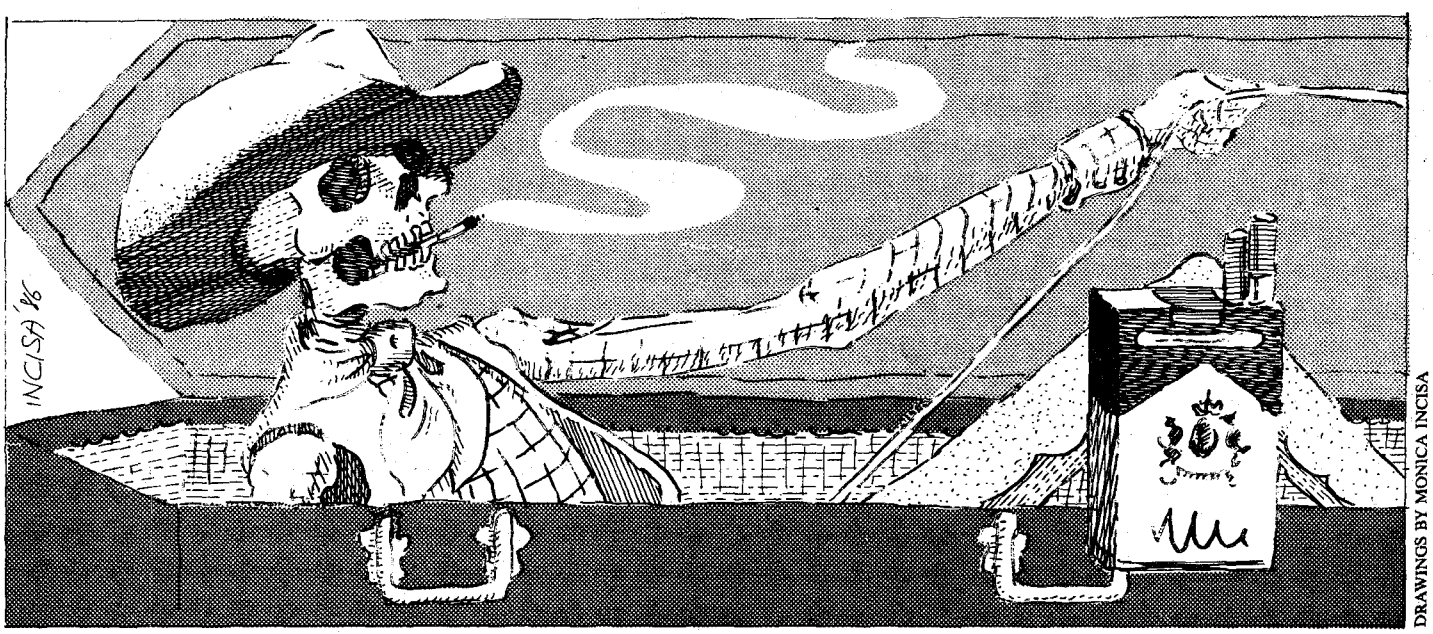
Courts often invoke the theory of "implied pre-emption" when Congress has not explicitly barred state action but instead has created a comprehensive scheme of Federal regulation that is meant to "occupy the field" that the state would seek to affect. The tobacco industry argues that Congress imposed such a Federal regulatory scheme in the area of cigarette labeling. It is this theory that several courts, including the U.S. Court of Appeals for the Third Circuit, have accepted in ruling for the cigarette makers.

But the Supreme Court and other Federal courts have been hesitant to use the slippery doctrine of implied pre-emption to circumscribe state action or keep litigants out of state courts. In 1983 the Supreme Court concluded that Federal laws establishing safety regulations for nuclear power plants did not pre-empt a California law that limited plant construction, for economic reasons, until safe disposal of nuclear waste could be arranged. A year later the Court held that the same law, even when boosted by the Price-Anderson Act's limitation on a nuclear plant's civil liability, did not pre-empt a lawsuit by Karen Silkwood's estate against Kerr-McGee for her radiation-related injuries. In siding with Silkwood, the Supreme Court said, "Whatever compensation standard a state imposes . . . a [nuclear] licensee remains free to continue operating under federal standards and to pay for the injury that results."

If the Silkwood opinion did not provide enough guidance for the Third Circuit, the court needed only to look to a 1984 opinion by Judge Abner Mikva of the U.S. Court of Appeals for the District of Columbia in a case that concerned a worker's allegations that Chevron, notwithstanding its compliance with Federal labeling laws, had failed to give adequate warning of the dangers posed by the insecticide paraquat, which it produced. The paraquat case involved the very issues central to the cigarette litigation: a Federal warning statute, the absence of express pre-emption, and a plaintiff claiming inadequate warning. It is strange, then, that the Third Circuit's opinion makes no reference to Judge Mikva's careful review of the same set of competing concerns—a review that allowed the plaintiff's suit to proceed.

In the cigarette cases it is clear that Congress intended to occupy a field; the question is, Which one? It is a question the Third Circuit never answered. As other courts have found, a Congressional intent to occupy the health and safety field does not bar state courts from awarding damages for compensatory or economic purposes.

In any event, instead of pinpointing what area Congress meant to pre-empt, the appellate court ruled against the Cipollones, deeming their lawsuit to be at cross-purposes with the Federal cigarette labeling act. The court found that the law's "purpose" was to establish a "comprehensive



DRAWINGS BY MONICA INCISA

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Federal program to deal with cigarette labeling and advertising," with the goal of avoiding "diverse, nonuniform, and confusing" regulations. But just how does this conflict with the Cipollones' claims? On several occasions—including recent challenges to a local rent control ordinance on the ground that it contravened the anti-price fixing and pro-competition goals of Federal antitrust law, and to a state tax on coal alleged to be opposed to a Federal policy of encouraging coal use—the Supreme Court has rebuffed the idea that a Congressional aim to foster something like competition or nuclear power can in itself suffice to squelch state action that dampens what Federal law would promote. Even if the purpose of the Federal label law is to foster interstate commerce in cigarettes, it is hard to see how allowing plaintiffs to bring their warning-related lawsuits would imperil that commerce. Tobacco companies may choose not to add any warning, or—as do producers of lawn mowers, drill presses and stepladders—they may choose to provide a uniform warning and advertising materials that satisfy the courts and consumers of all fifty states.

It is the broader ramifications of the Third Circuit's ruling that are most ominous. That court's view of preemption has the burning force of a prairie fire, and it is hard to see what structures of state compensation would survive the ensuing conflagration. Food, drugs, cosmetics and toxic substances are all governed in some manner by Federal warning laws. If innocent people are injured because of inadequate warnings, or because advertisements downplay the product's dangers, are all of them barred by Federal law from pursuing tort claims in state court? If so, the circuit court's ruling is cause for a knowing snicker in corporate board rooms across the country.

It is true that such litigation is highly controversial. Like the cigarette cases, the food and drug cases have been criticized by some as excessive and wasteful. But in our Federal system, reform of litigious excesses should ordinarily come from the states. If state legislatures and courts decide to act to limit or constrain recovery, that is their prerogative. For a Federal appellate court to draw a cloak of immunity over such cases is to overstep its place in our Federal scheme.

The Third Circuit's decision confers such a sweeping grant of immunity that even cigarette makers, never at a loss for chutzpah in the political realm, would have blushed at asking Congress expressly for such protection: "The point, Congressman Bumpus, is that even if we discover that cigarettes cause X disease, we might want to keep it a secret. And if millions of people get X disease as a result, we certainly don't want anyone to be able to sue us for failing to warn them." Not even a hardened Congressional cynic can envision such an argument winning the day on Capitol Hill.

This is not to say that juries will or should accept plaintiffs' claims that the actual warnings of the actual diseases they contracted (generally heart and lung ailments) were inadequate. There is plenty of information about the health dangers of cigarette smoking. And it is not clear how juries will deal with the plaintiffs' claims that cigarette advertisements undercut the warnings and lured them into smoking. Some may believe the smokers' claims of ignorance and deception; others may choose to believe that the smoker was the cause of his or her own demise, as did a jury in California recently.

But as long as state law permits, the verdicts should be left by courts where they were left by Congress: for juries to decide, based on the particular set of circumstances in each case. To the extent that Rose Cipollone's claim rests on the cigarette industry's failure to tell her what it knew, or on its efforts to preserve smoking's allure against a backdrop of grim statistics and deadly warnings, Congress did not pull the legal rug out from under her twenty years before tobacco pulled the breath from her cancer-devastated lungs. □

FOLLOW-UP

Whitewashing the Statue of Liberty

ROBERTA BRANDES GRATZ AND ERIC FETTMANN

After nine months of investigation, the General Accounting Office recently unveiled the results of its examination of the Statue of Liberty–Ellis Island Foundation, headed by Lee Iacocca. Many who have been following the foundation's stormy career expected that the G.A.O. would get to the bottom of allegations of financial irregularities, bureaucratic mismanagement, cronyism and overspending, which were unveiled last year at a Congressional hearing on June 27 and in our two-part series in *The Nation* [see "The Selling of Miss Liberty," November 9, and "The Battle for Ellis Island," November 30]. Instead, it handed Iacocca a public relations victory on a silver platter, since he could claim he had been given a clean bill of health.

The agency never conducted a full financial audit of the fund-raising and restoration activities of the foundation; avoided the critical issues; and left many other questions unanswered. At an all-day hearing of the House Subcommittee on National Parks and Recreation on April 22, Mary Hamilton, the G.A.O.'s New York regional manager, testified that, aside from missing a few financial reporting deadlines, the foundation was squeaky clean.

She did admit that charges of fiscal mismanagement weren't even considered. The G.A.O. had addressed only these narrow questions: Had the project met its fund-raising goals? Had it carried out the Interior Department's original intentions? Had the Interior Department maintained proper oversight? Although subcommittee chair Bruce Vento had instructed the agency to investigate allegations raised at the hearing last June by Garnet Chapin, an Interior Department

Roberta Brandes Gratz, an expert on urban redevelopment, is completing a book on that topic. Eric Fettmann is assistant city editor for the New York Post.

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whistleblower muscled out of the project by foundation pressure, it failed to do so.

"I have questions about the report," Vento told us after the hearing. "I don't think it measures up to the high quality expected from the G.A.O." That's putting it mildly.

Consider the perfunctory investigation of corporate marketer Richard Rovsek, who set up the foundation together with architect John Burgee and advertising executive John Morrissey, who headed the agency handling Chrysler's account. As its first move, the foundation signed Rovsek to a $3.6 million cost-plus five-year contract to seek corporate sponsors for the restoration of the statue. Although the G.A.O. acknowledged that Rovsek was fired by the foundation because the company he owns, Westport Marketing Group, "was attempting to solicit as clients companies that had become corporate sponsors," it never scrutinized the firm's possible conflicts of interest. Indeed, the G.A.O.'s audit manager, Vincent Grimaudo, went out of his way to defend Westport. The firm "brought in nineteen sponsors which contributed $66 million," he said. "When you consider what it cost to raise that money, they performed a valuable service."

Aggressive questioning of the G.A.O. witnesses at the subcommittee hearing by Vento and Representative Peter Kostmayer did confirm several charges against the foundation made in our articles and elsewhere:

§ The corporate sponsorship scheme, which was the focus of the foundation's earliest activities (and was the main reason for the Rovsek contract), was probably unnecessary. As we pointed out, instead of being asked for outright donations, corporations were licensed to use the Statue of Liberty logo in their advertising. The American people were never given a chance to come up with the bulk of the money through an uncommercialized, grass-roots campaign drawing on their affection and concern for one of the nation's foremost monuments. The sponsorships, expected to raise $100 million, netted only $69 million. The foundation's "capital campaign," which sought major individual donations, fell $7 million short of its $60 million goal. The merchandising of "official" Liberty souvenirs brought in $41 million, but $28 million of that came from the Treasury Department's marketing of commemorative coins. The only fund-raising effort that met and even exceeded its goals was the appeal to the public. Iacocca and company had figured the American people would be good for only $70 million, but they contributed $143 million.

§ Lee Iacocca controlled the foundation long before he was officially named as its chair, as we pointed out. Hamilton admitted to the subcommittee, "We have been told that he was calling the shots." Asked if the federally chartered Statue of Liberty–Ellis Island Commission had ever designated the foundation (which is not publicly accountable) the project's primary fund-raiser, she replied, "Not to our knowledge."

The G.A.O. did not investigate a long list of other serious allegations, including the potential conflict of interest involved in the hiring of Morrissey, a foundation director, to handle public relations for a 1984 Statue of Liberty fund-

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raising event (who, in turn, hired his son-in-law to direct the program); Iacocca's failure to submit to the full commission a master plan for Ellis Island that the commission's committee of experts approved but that he opposed; the payment of $55,000 in expenses to Burgee, who was supposedly donating his services, for developing an alternative master plan for the island at Iacocca's request; the merchandising of "official" souvenir items, such as Statue of Liberty beer mugs; and the foundation's refusal to accept funds raised through "unlicensed" fund-raising campaigns and its instigation of lawsuits against competing foundations and companies.

Other questions also went unanswered. For example, why was the original restoration budget increased from $103 million to $315 million? (Park Service officials told the subcommittee they didn't know who authorized an additional $27 million worth of work on Liberty Island.) Hamilton also said the corporate sponsors "pledged to contribute from $1 million to $5 million each." Actually, their donations represent a small percentage of the profits they generated by the use of the official centennial logo in advertising.

Why, after nine months of work, did the G.A.O. come back with a whitewash? Vento suggested that the agency is generally "reluctant to criticize," preferring instead to "depersonalize and depoliticize" its investigations. In addition, he said, "there was a certain feel with some of the people they interviewed about not embarrassing Iacocca, Secretary of the Interior Donald Hodel and so on. People were very cautious."

Garnet Chapin told us that when he complained during an interview with Grimaudo that "the chairman seems to be running for President," Grimaudo replied, "And I'm going to be the first one to vote for him."

Whatever the reasons, it appears obvious that some basic questions about the propriety of the Statue of Liberty–Ellis Island restoration campaign have still not been answered, Iacocca's claim to a clean bill of health notwithstanding. Until they are, Miss Liberty's new shine remains an illusion. □

Golden Years

(*Continued From Front Cover*)

comfortable retirement on $33,166 a year, out of your and my pockets. That's right, fellow suckers, we are paying $33,166 a year, about $9,000 a year more than half the wage-earners in this country make—to a chap who, if you believe in capital punishment for war criminals, should have been hanged.

The pension folks in Washington claim there is no way they can legally cut off Rudolph's income. Actually there may be a way, but we'll get to that later. Washington's lack of motivation for canceling the pension, though, is very real, for two reasons. First of all, there are a lot of influential people—including Patrick Buchanan, President Reagan's communications director—who don't think "helpful" war criminals should be punished. And in the second place, any effort to strip Herr Rudolph of his Federal pension would inevitably reopen investigations into the pro-Nazi activities of the U.S. Army and the National Aeronautics and Space Administration. You aren't going to get that sort of investigation in an Administration whose President has said German soldiers in World War II "were victims just as surely as the victims of the concentration camps."

Since you are helping to pay that $33,166 each year—a trifling $6.63 per dead slave laborer, in a manner of speaking—you might want a quick review of how Rudolph got on our pension rolls.

He began his significant service to the Third Reich at the rocket experimental station in Peenemünde, whose alumni included Wernher von Braun. That group developed the jet-propelled buzz bombs, known as V-2s, which Hitler thought would destroy England. But R.A.F. bombers finally located and plastered Peenemünde so enthusiastically that Rudolph and his colleagues were forced to move underground—to old mining tunnels near Nordhausen.

To make room for the rocket factory, which would be known as Mittelwerk, the tunnels had to be expanded, and that's where Rudolph's talents came into play. The expansion was done by hand. At first, laborers were brought from Buchenwald; later a new slave camp, Dora, was set up specially for Mittelwerk.

For two years Rudolph was its chief operations director. Aside from his engineering duties, he was responsible for the laborers' working and living conditions. Fritz Sauckel, head of the Nazis' entire laborers program, said foreign workers should "be treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."

Rudolph followed those orders faithfully. He gave his workers only shirts and pants of the thinnest material, even in freezing weather; the two bowls of "soup" that were the standard daily fare supplied, experts say, only half the nutrition needed to maintain life. There was no drinking water in the tunnels, no ventilation. Toilets were sawed-off barrels. Wherever workers ended their twelve-hour days (seven days a week, of course), they flopped on the damp ground to sleep. There was no medical help for the sick, and Rudolph refused to reduce their work schedule.

The death rate among Rudolph's laborers was 50 percent.

But not all died from illness. Some were tortured and executed for "sabotage," which was usually no more than breaking minor rules. The executions were handled by the S.S. Two Russian prisoners made a spoon from some scrap wire; for that they were hanged. Sometimes Rudolph would leave "saboteurs" hanging through portions of both work shifts as object lessons. Many of Rudolph's laborers were prisoners of war (including at least one member of the U.S. Air Force), in violation of The Hague and Geneva conventions.

When American soldiers got to the Mittelwerk-Dora complex in April 1945, they found hundreds of bodies that had been partially burned (in the S.S.'s effort to destroy evidence) and hundreds of others strewn around, half-naked, matted with dirt and straw.

But Rudolph had fled.

Robert Sherrill writes frequently for The Nation.

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He would surface in America.

In the closing days of World War II, U.S. military leaders could hardly be restrained in their eagerness to launch the cold war against the Soviet Union; many believed we should have been fighting it, not Germany, all along. Various branches of the Pentagon recruited hundreds of top Nazis, including many war criminals. Our intelligence services signed up such fellows as Klaus Barbie, a Gestapo leader, and Robert Jan Verbelen, an S.S. officer, both of whom were tried and sentenced to death in absentia, the former in France and the latter in Belgium, while they were secretly employed by our spy agencies.

At the same time, the Pentagon's armaments wing was secretly recruiting 765 German scientists and engineers, including 118 rocket scientists who were brought to this country in 1945 as part of what the Army called Project Overcast. When word of the operation leaked out, stirring considerable public outrage, the Army pretended the recruits would be here for only a short time—just long enough for the Army to pick their brains—and then would be shipped back to Germany. The military brass also tried to lessen the repulsiveness of the new partnership by changing the name to something cuter, more innocuous-sounding: Project Paperclip.

If the temporariness of the partnership was a lie, so was Paperclip's official policy, which stipulated, "No person found . . . to have been a member of the Nazi Party and more than a nominal participant in its activities, or an active supporter of Nazism or militarism shall be brought to the U.S. hereunder." U.S. immigration laws already prohibited the entry of people who had been members of fascist organizations and who had opposed the U.S. war effort.

The fact that President Harry Truman signed that policy statement into a presidential order in September 1946 didn't mean a thing. The military had no intention of abiding by the law. And it was easy to violate because the military itself was given final clearance authority.

The process of screening the Germans to see if they were war criminals or even gung-ho Nazis went through several layers of the military, and along the way miraculous changes could be—and were—made. The original investigators of von Braun, for example, after noting that he had been a major in the S.S. and a member of four other Nazi organizations, designated him as a "potential security threat." But before that report had ended its journey through the Army's filtration system, von Braun's threat to security was dismissed and he was downgraded from a significant Nazi to a "mere opportunist." Indeed, the Army was capable of purifying much more enormous sins than von Braun's. Doctors who experimented on humans and camp commandants who tortured and murdered inmates were, with the help of the Army's cosmetic treatment, turned into attractive immigrants.

Professor Linda Hunt, using hitherto secret documents obtained under the Freedom of Information Act, wrote in the March 1985 *Bulletin of the Atomic Scientists*, "There is no doubt that the U.S. military saw nothing wrong with employing war criminals." In addition to some of those mentioned above, she cites the I.G. Farben plant manager, who was added to the Pentagon's hiring list even though our military leaders were aware that the plant was "part of the Auschwitz concentration camp complex in Poland where an estimated four million prisoners died." The bureaucracy's continuing cover-up can be seen in the General Accounting Office's failure to use the material Hunt found. In 1982 the House Judiciary Committee asked the G.A.O. to "investigate allegations that federal agencies aided the immigration of Nazi war criminals and collaborators to the United States and concealed their backgrounds once they were admitted." In the G.A.O's forty-page report, released last June, only two paragraphs are given over to the Army's use of Nazi war criminals in science, virtually ignoring the data obtained by Hunt.

If some of the Nazi recruits received a second investigation only for the purpose of a whitewash, others received no attention whatsoever after the preliminary investigation.

Among that favored group was Rudolph.

A 1945 Army appraisal of Rudolph summarized: "100% NAZI, dangerous type, security threat. . .!! *Suggest internment.*" [Emphasis in the original.] Two years later, during a trial of some of the other Nazis who were in management at the Dora concentration camp, witnesses fingered Rudolph as the Mittelwerk official who had got the S.S. to torture and hang suspected saboteurs. Nevertheless, despite its own preliminary report and the trial testimony, the Army refused to look further into his background. It O.K.'d him for Paperclip and helped him obtain U.S. citizenship in 1954.

From the beginning of his employment, the Army loved Rudolph. He fit right in. In 1951 he was promoted to manager and technical director of the Redstone Missile Weapons System and helped design the Pershing missile.

A decade later he transferred to NASA, which made him production supervisor of the Saturn 5 rockets that sent Apollo astronauts to the moon. For that he received a presidential handshake and the Distinguished Service Medal. When Rudolph retired, in 1969, he held the title of special assistant to the director at the George C. Marshall Spaceflight Center in Huntsville, Alabama—a town that has been almost Paraguayan in its hospitality to Nazis. (About seventy of the Paperclip gang still live there.) In retirement NASA kept him employed as a double dipper, one of its highest-paid consultants. And Rudolph might have gone right on fading into the sunset, his face aglow with honors, had not two events, each insignificant in itself, combined to cloud his future.

The first was the establishment by the Justice Department of the Office of Special Investigations, in 1979. The O.S.I. was truly insignificant, then and now. It was one of those pitiful "gestures of good faith" that periodically crops up in Washington and limps along in such a desultory fashion as to result mostly in embarrassment to those who observe its ineptness.

The O.S.I., whose creation was apparently in response to an equally inept House Justice subcommittee investigation of the government's role in importing German war criminals, was supposed to ferret out Nazis who had come

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o this country in some fraudulent guise and force them to eave. But the O.S.I. was not to be taken very seriously. It vas an extension of the government's laissez-faire attitude oward fascism. Among the 550,000 persons who entered the Jnited States under the Displaced Persons bill of 1948 and he Refugee Relief Act of 1953 were many Nazi war crimiıals, some of whom cooked up stories on their own to get ɔast indifferent immigration officials, while others entered, ıs pointed out already, with the collusion of ethically rivolous Federal agencies. How many sneaked in? Thousands, ıccording to most estimates. Allegations of their presence ıere were repeated many times in the press, but not until the ate 1970s did Federal authorities show the slightest interest n rooting them out and deporting them. The O.S.I.—which rom the beginning has had only enough money to hire four nvestigators, seven historians and a couple dozen lawyers—vas not expected to change the situation, and it has lived up o those dismal expectations.

In the nearly seven years of its life the O.S.I. has tracked lown and filed denaturalization and deportation cases ıgainst forty-five or so German war criminals. Of those :ases only "about" twenty-three have gone to trial, and the ɔ.S.I. has won or seems to be winning in only "about" fifeen of them. (It's all very vague, partly because of the apɔellate routine. I got my figures from Mike Wolf, deputy lirector for litigation at O.S.I., but he seemed strangely unsure ɔf all statistics and kept imploring me to put "about" before any numbers he gave me.)

If the O.S.I. has been a bust in hunting down Nazi war criminals, one reason may be lack of enthusiasm for chasing old geezers who, however cruel they were in more youthful days, are now teetering on the edge of the grave. After all, most of the bastards were approaching early middle age when they got to this country, and they have been here for nearly forty years. Another reason for the O.S.I.'s bumbling is doubtless that some of the war criminals have made friends in high places.

As has Rudolph.

In any event, it is doubtful the O.S.I. would have got after him if it hadn't been for another seemingly insignificant event, which occurred in 1980. That was the publication of *Dora: The Nazi Concentration Camp Where Modern Space Technology Was Born and 30,000 Prisoners Died*, by Jean Michel, a Frenchman who had been an inmate at the camp.

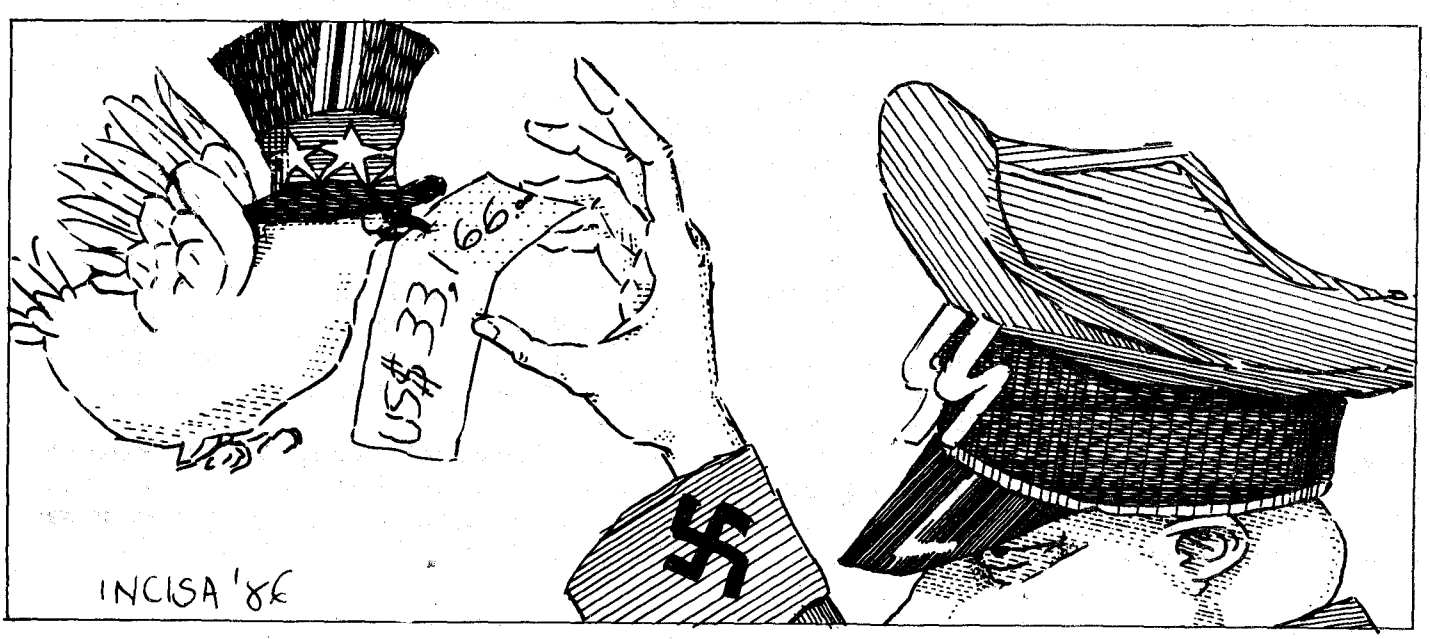
Until then Dora had been largely overlooked by Nazi-hunters, and particularly by Jewish historians of the Holocaust, because relatively few Jews had been there. Michel's book pointed the O.S.I. historians and investigators in the right direction. Plodding along for three years, they finally caught up with Rudolph, with what Eli M. Rosenbaum, the O.S.I. prosecutor who prepared the case, called irrefutable evidence that Rudolph "personally participated in the procurement of concentration camp inmates to serve as slave laborers [who] while working under the supervision of Rudolph and his subordinates, perished in large numbers . . . in grotesquely inhuman conditions."

With that evidence, why didn't the O.S.I. bring him to trial—a trial that would have revealed the Army's collusion in covering up his past? Why not use the trial to teach an unforgettable moral lesson about the Pentagon's character? I asked Mike Wolf, and his answer was: "Teaching moral lessons is not what Congress set us up for. It's the ultimate aim of the office to deport people who persecuted people."

So O.S.I. officials went quietly to Rudolph in mid-1983, showed him the damning evidence and worked out a deal. He could, at his leisure, pack, return to Germany, give up his U.S. citizenship and live happily ever after, complete with a Federal pension. If he agreed to do that, the Justice Department would agree not to take him to court, reveal in detail his terrible past or prosecute him for telling lies to obtain his citizenship.

Some deal. Rudolph got it all.

The government and Rudolph signed the agreement in November 1983. He had four months to tidy up loose ends in this country, and two additional months to settle down in West Germany before he surrendered his citizenship papers. No rush. And then it took the Justice Department five more months to get around to announcing that Rudolph was gone.



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Rudolph's expulsion triggered several odd responses. For one thing, Jewish organizations sounded as if they thought Rudolph had been punished. Two of the more stupid responses came from Justin Finger, civil rights director of the Anti-Defamation League of B'nai B'rith, and Elie Wiesel, who has made a career of being a survivor of the Holocaust. Finger said sending Rudolph back to Germany "stands as a reminder that war criminals, whether past, present or future, will not go unpunished." Wiesel said: "Justice has been done. We must be sure those killers are not in our midst as free men."

They must have been out of their cotton-picking minds. Punished? Banished from our midst? This guy Rudolph lived with us for nearly forty years, drawing top dollar (NASA and the Army refuse to say how much in all they shelled out to Rudolph in salary, but it had to be around a million bucks), getting awards and congratulations personally from Kennedy, Johnson and Nixon and finally going home with a fat U.S. government pension. Some punishment.

Strangely, though several newspapers mentioned the pension, none that I read mentioned how much it was. I wanted to find out the dollar figure (it would increase the pleasure of hating him and his Federal collaborators) and also find out if it was possible to cut off his pension. I got no help from NASA. Indeed, the response there was to close ranks behind the deported criminal. Two dozen of the Germans recruited with Rudolph in Paperclip wrote a letter to Reagan asking that their old buddy's U.S. citizenship be restored. And Eberhard Rees, who succeeded von Braun as director of the U.S. rocketry effort, personally met with Patrick Buchanan at the White House to press the same plea. Rees said the talk was "very positive."

Since I was getting nowhere, I asked a friendly attorney in Senator Gary Hart's office to try to pry the pension data from NASA, and many months later—the usual speed on Capitol Hill—I got the answer. As I noted before: $33,166 a year, and due to rise with cost-of-living increases. You read it here first.

As for whether Rudolph's pension can be terminated, the answer goes like this: His pension could have been ended if the Justice Department had taken him to court and won a conviction, or if it had simply won an indictment and he had fled the country to avoid prosecution. But the Justice Department blew those chances.

There is, however, one other possibility: 5 U.S.C. §8315 (a) (1982), better known as the "Hiss act."

It reads, in part:

> An individual . . . may not be paid annuity or retired pay . . . if the individual knowingly and willfully made or makes a false, fictitious, or fraudulent statement or representation, or knowingly and willfully concealed or conceals a material fact . . . concerning his . . . past or present membership in, affiliation or association with . . . [an] organization, party, or group advocating the overthrow, by force, violence, or other unconstitutional means, of the Government of the United States . . . in a document executed by the individual in connection with his employment in, or application for, a civilian or military office or position.

Alger Hiss was sentenced to five years in prison for allegedly lying to a grand jury about membership in the Communist Party. After his conviction Congress passed the above-mentioned law, in 1961, to cut off his pension. The Federal courts ruled that the specially contrived law couldn't be used on Hiss because doing that would violate the ex post facto prohibition of the Constitution.

The courts would doubtless rule the same way if the Hiss law were used against Rudolph because of the lies uttered when he was brought into the country in 1945. In fact, Rudolph's 1945 lies are so obviously not covered by the Hiss act that the Justice Department did not even investigate his Army record for possible Hiss act application.

However—the Hiss act still might do the job. As the friendly lawyer in Hart's office pointed out:

> The facts justify a demand for further investigation into Rudolph's transfer to NASA. Rudolph transferred to NASA in December 1961. The Hiss act became law on September 26, 1961—three months before Rudolph's transfer. Rudolph's employment file should have contained his employment record, and *NASA should have conducted its own investigation. Rudolph may have misrepresented his notorious past during a NASA investigation. If so, the Hiss act would be available to discontinue Rudolph's pension benefits immediately.* [Emphasis added.]

That sounds promising. Despite NASA's notorious romance with Nazis, it surely went through the formalities of interviewing Rudolph about his wartime experience before hiring him, and if it did that, it is an absolute certainty that he lied about his murderous role at the Mittelwerk-Dora complex. If those lies are in NASA's files, his pension is as good as kaput.

Can somebody in power be persuaded to get the investigation started? Given the present character of Washington, it won't be easy.

There's another consideration worth mentioning. Although old age is thinning the ranks of the Nazis in this country, a few others of Rudolph's stripe will probably surface, fattened by a pension from NASA or the Pentagon. Some law should be passed promptly that would make it easier to block Federal pensions from going to riffraff aliens who were forced, one way or another, to leave the country.

One method, my friendly attorney advises, would be to add a simple phrase to the Federal retirement statute that would make an alien eligible for a Federal pension only if at the same time he or she "remains eligible for United States citizenship."

The addition of those six words to the statute, he says, "would prevent pension payments to aliens that the J.D. deports, as well as to voluntary emigrants," such as Rudolph, who give up their citizenship to escape criminal prosecution.

Admittedly, stopping Rudolph's pension and making it impossible for other war criminals to follow him into federally subsidized retirement is paltry revenge, considering the magnitude of their evil and the decades they have escaped their due (Rudolph is nearly 80). But doing it would be more than has been done in forty years. □

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BOOKS & THE ARTS.

Our Words Stand

SVEN BIRKERTS

YOUR NATIVE LAND, YOUR LIFE. *By Adrienne Rich. W. W. Norton. 113 pp. $14.95. Paper $6.95.*

Adrienne Rich's career as a published poet is now thirty-five years old. This is a straightforward enough statement of fact, but everything about it feels wrong. First, I can't get comfortable with the word "career"—as serious and assertive as her endeavor has been all along, Rich has never appeared interested in tending her place as a poet in the way that many of her peers have. Her poems strike me, increasingly with the passing of years, as bulletins from a front: the real work is being done off the page. Second, the time frame is somehow deceptive. Rich does not come across as one of the Old Guard, though by rights she should. The work feels fresh, suspicious of certainties and fixed opinions, very much subject to further growth. She has matched the velocity of cultural change with her own inner velocity—it's impossible to cashier her with the badge of distinguished service.

At the same time, however, there *is* something venerable about Rich, and it emerges, perhaps for the first time, in *Your Native Land, Your Life*. Her confident assumption of authority, combined with a significant enlargement of her moral domain, contributes to the impression: she is not just a representative figure, a spokeswoman; she is an exemplar, an active agent in the service of the good. Nor is she oblivious of this:

> Sometimes, gliding at night
> in a plane over New York City
> I have felt like some messenger
> called to enter, called to engage
> this field of light and darkness.

So she writes in her long poem "North American Time." She undercuts her claim in the very next line—"A grandiose idea, born of flying"—but that sense of an important calling is manifest throughout this collection. I find it admirable that Rich can acknowledge frankly her hard-won position as a model and a guide.

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For the past few decades, of course, Rich has been revered as an oracle in certain quarters. She has won the passionate partisanship of thousands of feminists, many of whom have been less interested in her poetry as poetry than as a written validation for their own struggles. Her books have been mined for slogans as well as for clues about allegiances, stances and positions, for Rich herself has traversed the long arc of feminist self-definition. The dutiful, precocious formalist of *A Change of World* (1951) became the disaffected questioner of *Snapshots of a Daughter-in-Law* (1963), the radical feminist of *Diving Into the Wreck* (1973) and the lesbian separatist of subsequent books. Though always conscious of her emblematic political status, Rich has never lost sight of the claims of her craft. Her movement has been ever in the direction of a freer, more expressive idiom, toward a line that can transmit anger as well as compassion without lapsing into banality. The newest poems show no slackening of control.

Rich has always linked the cultural status of women with that of other oppressed groups, but the travails of the former have hitherto been dominant. *Your Native Land, Your Life* brings a shift of emphasis. While her feminist perspective remains unaltered, new subjects emerge to claim her attention. These latest poems look for ways to come to terms with age, physical pain and the deep issue of racial heritage. For the first time in her poetry, Rich brings herself to face her Jewishness, and in the process she finds that she must come to terms with the ghosts of her father and her former husband. Out of this self-inquisition emerges a wider sense of responsibility. When Rich titled her 1978 collection *The Dream of a Common Language*, she meant a language common to all women. In *Your Native Land, Your Life*, I sense an impulse toward a more inclusive human commonality.

The book is divided into three sections. The first, "Sources," is a long suite of twenty-three parts. The poem looks to answer the question posed early on: "*With whom do you believe your lot is cast ?*" The line, incidentally, was first used in "The Spirit of Place," from *A Wild Patience Has Taken Me This Far* (1981), and that poem, in retrospect, appears to be a preliminary step toward the open questioning of her Jewish heritage conducted here. "North American Time," the middle portion of the book, preserves continuity with Rich's writing of the last decade; the nineteen poems, many of them composed in serial chunks, carry on, whether directly or through the mediating personae of other women (Ellen Glasgow, Emily Carr), her search for the roots of responsibility, both personal and social. The last grouping, "Contradictions: Tracking Poems," comprises twenty-nine quick-flash lyrics and adjurations. These, in their sum, give us a sharp glimpse of Rich as artist, lover and spokeswoman; they also show us, for the first time, her private grappling with the debilitating pains of arthritis.

"Sources" is, to my mind, the weakest part of the book. For one thing, the constant voicing of italicized questions—"*From where does your strength come, you Southern Jew?*"—is distracting and feels self-conscious. The poet is pushing herself, badgering herself, toward a deeper grasp of identity, but from the material presented in the lines we are unable to account for the sudden urgency. Also, Rich's longing does not come across as convincingly spiritual. She writes:

> but there is something else: the faith
> of those despised and endangered
>
> that they are not merely the sum
> of damages done to them:

But while this expresses a kind of religious reasoning, it does not reach to the emotional core, the heart's yearning *toward* something. Nor does Rich ever reveal what, beyond continuity, rootedness, the faith may signify. Surely the racial bond cannot be cleanly extracted from the surrounding body of belief.

My other reservation about the "Sources" sequence has to do with the way in which Rich tries to come to terms with her father. Here is the second paragraph (the addresses to father and husband are given in prose) of her brief:

> After your death I met you again as the face of patriarchy, could name at last precisely the principle you embodied, there was an ideology at last which let me dispose of you, identify the suffering you caused, hate you

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righteously as part of a system, the kingdom of the fathers. I saw the power and arrogance of the male as your true watermark; I did not see beneath it the suffering of the Jew, the alien stamp you bore, because you had deliberately arranged that it should be invisible to me. It is only now, under a powerful, womanly lens, that I can decipher your suffering and deny no part of my own.

As valuable as this insight may have been to Rich, I see it more as an undigested journal entry than as a passage worthy of inclusion in a cycle of poems. I am not disturbed that it is in prose, but that it *is* prose. Rich, who generally excels at making public lines out of private conflicts—who understands at just what point the personal becomes universal—here fails. She is not so much uncovering a new perception as revealing the radical insufficiency of a former one. Worse still, she prides herself ("a powerful, womanly lens") upon having seen the forest for the trees.

Most of the poems in "North American Time" try to discover just how the self—private and artistic—fits into the larger social order. Rich achieves a credible tension by cross-examining her own actions and motivations. "We move but our words stand," she writes in the title poem, pushing toward a recognition of the accountability of writers before the signs they put to the page. It cannot be otherwise, she finds, for there is no creation that is self-contained:

> Try sitting at a typewriter
> one calm summer evening
> at a table by a window
> in the country, try pretending
> your time does not exist
> that you are simply you

But in "Yom Kippur 1984," she complicates the situation by bringing to collision the imperatives of the artist with those of the Jewish faith:

> Find someone like yourself. Find others.
> Agree you will never desert each other.
> Understand that any rift among you
> means power to those who want to do you in.
> Close to the center, safety; toward the edges, danger.
> But I have a nightmare to tell: I am trying to say
> that to be with my people is my dearest wish
> but that I also love strangers
> that I crave separateness
> I hear myself stuttering these words
> to my worst friends and my best enemies
> who watch for my mistakes in grammar
> my mistakes in love.
> This is the day of atonement; but do my people forgive me?

The contradiction is as old as art. Though Rich gives it no striking new expression here, her appeal to a vision rooted in culture rather than gender makes the poem a milestone in her own search.

Rich's ongoing self-interrogation seems to have pulled her back into an inner battle zone. Indeed, it is almost as if her continued growth as a poet depends on her finding a way to challenge any position she arrives at. The separatism implicit in her lesbian advocacy is now opposed by a drive toward a more encompassing racial solidarity. The conflict forces her to reassess her responsibilities. The last section of the book ("Contradictions: Tracking Poems") does not come to any resolution, but it clearly suggests the intensity of her inner debate and sets out some of the opposing terms. The second poem, for example, invokes 1980s America:

> Heart of cold Sex of cold
> Intelligence of cold
> My country wedged fast in history
> stuck in the ice

But when we lift our eyes from these concluding lines and look to the next poem, we find:

> My mouth hovers across your breasts
> in the short grey winter afternoon
> in this bed we are delicate
> and tough so hot with joy we amaze ourselves

Public versus private; abstract versus sensual. The larger realm of responsibility cannot be shuttered off by our natural gestures of love; nor will those gestures be curtailed by its presence. How can we irradiate that realm from our narrow privacy? Rich's poetry has always answered thus: by living bravely, by denouncing and combating oppression, no matter how small-scale and local, and by making, as she puts it so beautifully in "Homage to Winter," "the visible world your conscience." Even in these last lyrics, writing out of her acute physical pain, she keeps marking out the vital connection between the individual and the world. Here is Rich at her secular best:

> You who think I find words for everything
> this is enough for now
> cut it short cut loose from my words
>
> You for whom I write this
> in the night hours when the wrecked cartilage
> sifts around the mystical jointure of the bones
> when the insect of detritus crawls
> from shoulder to elbow to wristbone
> remember: the body's pain and the pain on the streets
> are not the same but you can learn
> from the edges that blur O you who love clear edges
> more than anything watch the edges that blur □

THEATER.

MICHAEL MALONE

The House of Blue Leaves

"It's the only dream you can have—to come out the number-one man."
—Arthur Miller,
Death of a Salesman

There is standing room only at *The House of Blue Leaves* these days. John Guare's black comedy about a Queen's songwriting zookeeper, his pathetically disturbed wife and preposterously complacent mistress is now enjoying a well-deserved successful revival in a brilliantly staged production at New York City's Vivian Beaumont Theater, which has itself been recently revived from darkness. *Blue Leaves* is the discovery of the season, the new hot ticket, although the play is neither new nor previously neglected. Sixteen years ago, *Blue Leaves* won the New York and Los Angeles Drama Critics Circle awards; since then, college, community and stock theaters have frequently performed it. But this year it has received eight Tony nominations, including one for the best play of 1986. To be eligible, a play need only have never been previously produced "on Broadway," which means of course that, with any luck, one of these days Aristophanes or Beaumont and Fletcher could grab the gold statue.

This ruling puts *Blue Leaves* in competition with Michael Frayn's *Benefactors* (already recipient of the New York Drama Critics Circle Award for Best Foreign Play), and with Athol Fugard's *Bloodknot* (a revival, now closed), but

Among Michael Malone's novels are Dingley Falls *(Harcourt Brace Jovanovich),* Uncivil Seasons *(Delacorte) and the recently published* Handling Sin *(Little, Brown).*

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not with Joe Orton's *Loot* or O'Neill's *The Iceman Cometh*, both of which are nominated for less prestigious Tony's as Best Reproductions. That *Blue Leaves* is no less a revival than these three, and no more on Broadway than Sam Shepard's *A Lie of the Mind* (recipient of the Drama Critics Circle Award for Best Play, but excluded from Tony consideration) has caused some flapdoodle among theater critics, whose dismay at the illogic of the Tony committee reveals a touching idealism that borders on the prelapsarian. Why should they expect prizes in the arts to be any more reasonable than prizes on *Let's Make a Deal*? Why, with theater attendance and box-office income so low, with only thirty-three openings this season (the lowest in Broadway history), should we do anything but rejoice at every good play, newborn or resurrected, that succeeds in getting itself soundly "clapper-clawed by the vulgar"?

In a way, *Blue Leaves* is about prizes, about yearning for them. Its characters are all dreamers; they dream of fame and of the famous. They want what the famous have: laurel and loot, stardust and a place in the sun. This unending American dream (American tragedy)—what we all could have been, should have been, contenders for the only spot there is, the number-one spot—brings Artie Shaughnessy to the El Dorado Bar Amateur Night as the play opens, to sing his heart out ("I wrote all these songs. Words and the music") in hopes of a blue spotlight. In the clichés of his lyrics we hear that dream. "I'm looking for Something." "I'm here with bells on. Ring! Ring! Ring!"

Then, on the Beaumont stage, behind the Shaughnessys' humdrum Queens apartment crammed with its tawdry gewgaws and totems of fame, in rhythm with the blare of Strauss's "Thus Spake Zarathustra" (better known perhaps as the soundtrack from *2001*, or as Elvis Presley's concert theme song), the glittering lights of Manhattan's skyline appear. The audience laughs; no doubt we're supposed to. But those bright towers of big-time success are as near and as far from Artie Shaughnessy in Queens as they were from Willy Loman in Brooklyn. As Guare has written about this play and its genesis in his Catholic boyhood in Queens, "How do you run away to your dreams when you're already there?" He holds his characters' failed aspirations and their absurd worship of celebrity up to a lampooning,

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madcap mockery that some have called cruel, but his contempt is reserved for the culture, not the creatures who have fed on its junk food of TV and tabloids. Indeed, the sadness of *Blue Leaves* centers, by Guare's account, on the cruelty of our national dream of success: "Everyone in the play is constantly being humiliated by their dreams, their lives, their wants, their best parts. . . . I'm not interested so much in how people survive as in how they avoid humiliation. . . . avoiding humiliation is the core of tragedy and comedy and probably of our lives." For the truth is that Artie Shaughnessy is never going to win prizes, any more than Chekhov's three sisters are ever going to get to Moscow, any more than Williams's crippled Laura will ever find a gentleman caller or Willy Loman ever follow his brother Ben into the jungle that's "dark but full of diamonds" and walk out a rich man.

Blue Leaves is dark and full of diamonds, and I hope it wins all the prizes it can. It's a marvelous, maniacal tragicomedy, full of waggish merriment, razor sharp in its mordant wit but never cutting out the hearts of its characters, or turning away from their keen aches. Here, as in plays like *Landscape of the Body* and *Bosoms and Neglect* (also revived this season), Guare has the nimbleness to run up and down the scaffold of gallows humor, cap and bells on his head, the comic sock on one foot, the tragic buskin on the other, without tripping into either burlesque or bathos. According to him, the impetus for this tightroping came from seeing Laurence Olivier perform in *Dance of Death* and *A Flea in Her Ear* on successive nights. "Why," he decided, "shouldn't Strindberg and Feydeau get married [or] at least live together, and *The House of Blue Leaves* be their child?" To help him keep his balance, Guare has been blessed by strong direction from Jerry Zaks, wonderful sets and lighting by Tony Walton and Paul Gallo, and, most of all, by consummate acting from his cast, particularly Swoosie Kurtz as the fantastical wife and Stockard Channing as the garrulous mistress. The performances of both women are extraordinary—exquisitely evolved, perfectly sustained and played together in a duet of comic counterpoint that is dazzling to watch.

Blue Leaves takes place on a day in 1965 when the Pope drove through Queens on his way to the United Nations to help stop the war in Vietnam. (On that actual day, Guare—in an irony worthy of his drama—had finally achieved his nun teachers' dream of touring the Vatican.) While crowds gather on the sidewalks, more excited than they've been since the premiere of *Cleopatra*, Artie (played with great charm by John Mahoney) dreams of his son, a recruit bound for Vietnam, becoming Pope and making his dad Saint in Charge of Hymn-Writing. Bunny, Artie's deliciously tacky mistress, a strutting compendium of hackneyed sentiments and Dale Carnegie optimism, urges him to wake up, to go get his songs blessed by the Pope, go get his wife put in a mental institution and, most emphatically, to get the two of them to Billy, Artie's old friend, a movie big shot in California. There they will have a new life where dreams can come true. Then and only then will she cook for him; until they're legally wed, he will have to content himself with sex, and with looking at photos of her dishes in a scrapbook hidden under the couch.

The scrapbook is hidden there from Bananas, Artie's mentally disturbed wife, who wanders eerily through the house she has been too frightened to leave since her suicide attempt several months ago. Its windows are now barred by an iron gate, because, like the mother in Guare's *Bosoms and Neglect*, like the mother in O'Neill's *Long Day's Journey*, like the mothers and wives in so many American plays and in so much of American life, Bananas bears the psychic burden of her family's failures; she feels the pain, screams the truth and for doing so has to be sedated with pills or sent away to an institution, the house of blue leaves (the leaves were really bluebirds that flew off and left the boughs bare). Through the luminous sensitivity of Swoosie Kurtz's portrayal, Bananas transcends the pathos of her delusions and stands at the play's center, quiet as grief, heartbreaking as honesty. She moves quietly in and out of Guare's hilarious, absurdist parade of deaf starlets, monstrous moguls, terrorist sons and a trio of madcap nuns who roar on stage like the Marx brothers in habits. Bananas stands there with the lucidity of madness and asks us to laugh and cry with her at all their—all our—lost dreams. Artie cannot escape her truth even by destroying her. Nor can we, no more than dreamer Tom in *The Glass Menagerie* (fled to cities that "swept about me like dead leaves, brightly colored, torn from branches") could escape the vision of his lost sister. The triumph of *Blue Leaves* and of its performers is that we cannot forget the sorrows that blue spotlights disguise. It is that knowledge that makes Guare not just the older but the wiser brother of tour de farce writers like Christopher Durang. If, as the successes of *Blue Leaves* and Orton's *Loot* suggest, audiences are now prepared to welcome this darker, zanier humor into the theatrical mainstream, then our theater is fortunate to have ready in the wings not only a master of laughter but a poet of compassion. □

FILMS.

ANDREW KOPKIND

Second Serve (May 13, CBS)

Gender is a prison from which there is no real hope of escape. Most inmates come to enjoy the advantages of maximum security, the predictability of routine, the conference of identity and the assurance of equality within certain immutable categories that the system entails. No institution on earth is more totalitarian. Gender determines, in one way or another, all human behavior, thought and purpose. It sets rules for art and science, reason and emotion, occupation and idleness; for crossing one's legs and holding a cigarette; for dancing a dance and singing a song; for talking, eating, dressing, working, loving, parenting, playing and dying. The system allows for infractions and exceptions because the little liberties demonstrate the larger limits, and because the exception is always necessary to prove that there is a rule.

Richard Raskind was not happy in the sexual slammer. The behavior that was ordained for him as a man seemed entirely out of keeping with the sense he had of himself as a woman. All the aspects of masculine self-presentation were at variance with his feminine self-definition: the clothes he wore, the decoration of his surroundings, the manners and mannerisms he displayed to friends and lovers, the primary and secondary sexual equipment he saw in the mirror or showed in the shower. His increasingly frequent compulsions to break the rules of gender only proved to him how deeply those rules were engraved in the granite of existence. He would dress

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himself in women's clothes, arrange his sheep-dog wig and slip out to sip coffee in an all-night diner, simply to express the sleek, smooth anima crying out within his rough, ungainly frame. But those midnight transgressions brought no lasting peace or permanent release. For going too far, the warden in Raskind's mind punished him with shame, revulsion and despair, and forced him, at last, onto the surgical slab and into the body of Renee Richards.

Surely for the wrong reasons, CBS decided to offer the agony of Richard Raskind's "gender confusion" to an audience that otherwise sees only the most confirmatory material about sexuality and society, but the result was a strikingly original and provocative piece of television history. Not the oversimplified story, not the graceless writing, not the slack direction: those elements were hardly more unusual in *Second Serve* than in any run-of-the-morgue medical movie or disease drama. The crucial difference in this difficult project was the role of Raskind/Richards (here called Richard Radley, to satisfy obscure legal requirements), and Vanessa Redgrave delivered a performance of such uncanny sensitivity and convincing confusion that the doctor-drama genre is forever shattered. With a touch, a long look, a hesitation and a vocal growl, she raised more pertinent questions and suggested deeper issues in two hours than the average network exec is likely to allow on the air in a lifetime.

What is gender, anyway? It has something to do with sexuality, but clearly not in any mechanical or affectional way. A man is not a penis and a woman is not a vagina, despite the vulgar epithets. Not since Plato—at least not since Kinsey—has anyone seriously held that you are who you sleep with, in the complementary sense. A man who breaks all the gender rules and dresses, walks, talks and acts "like a woman" is still a man, if he says he is. A woman who takes testosterone to grow a beard and change the muscle/fat ratio of her body remains a woman, if she wants to. Certain combinations of X and Y chromosomes may give a clue to the reproductive capabilities of individuals, but they do not define gender in medicine or law; Richards's successful suit against the tennis establishment confirmed the irrelevance of genetic evidence in that regard.

As Redgrave shows and only rarely tells, the definition of gender is intensely subjective, beyond physical quantification. Her "spirit," she says, is in an inappropriate body. Change the body, through amputation and hormones, and you merely change the appropriateness, not the animating and identifying spirit. Dress and habit, and sexual behavior as well, are linked to gender as decoration is to essence, as figure to ground: they are seen in conjunction but they are logically distinct.

For the most part, *Second Serve* chronicles the conjunction but continually suggests the distinction. A juvenile Richard is seen fretting about his appearance in a dress his overbearing mother (Louise Fletcher) and tormenting sister demand he wear for Halloween. He is distraught over his first love relationship with a woman, whom he makes pregnant; he declines to marry her and offers to arrange an abortion. Mom, a psychotherapist, sends him to an avuncular and conventional analyst (Martin Balsam), who diagnoses a "psychosis" and recommends that he grow a beard and pick up girls to reinforce his masculinity. His chum Josh (William Russ) tries to humiliate him out of drag by calling in the neighbors for a peep;

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when that fails, Josh makes a match for Richard with an attractive model in a singles' bar. In time, Richard marries that beard, so to speak, and they have a son.

But therapists, family and friends have all been seeing Richard's condition as a disease and treating its symptoms. Their liberal intentions may be good, but they cannot hear the screams of Renee begging to be born. Richard knows that a more radical approach must be found to liberate his spirit and he is forced to look outside the therapeutic experience. Surgery seems to offer a final solution, not because it changes gender definition in any scientific sense, but because of its symbolic finality. One doctor reneges just before the cutting is to begin because he fears adverse publicity from performing "the operation" on a prominent professional figure, as Raskind, a well-regarded ophthalmologist, has become by that time. Later, Raskind himself ducks out of another appointment with the knife in a Casablanca clinic. At last, the pioneering Dr. Roberto Granatos agrees to perform the transsexualizing procedure, and Richard's spirit and flesh are repackaged in a plausible combination.

Renee is up and over the wall, but the gender police are ever vigilant. Obedient to the new rules of feminine behavior, she is still vulnerable to stigmatization for breaking the masculine-model penile code that once ruled Richard's life. When Renee enters a tennis tournament in La Jolla as the woman she now is (as a man she had once been a promising player on the amateur circuit), an ambitious local television reporter discovers her secret identity and blows her elaborate cover. Renee's new boyfriend slinks out of the picture. Son Andy is whisked away to Europe by his mother, from whom Richard is divorced. And it looks like Renee's comfortable, quiet ophthalmological practice in an anomic Southern California community will not stand the media glare.

But humiliation is a familiar figure in Renee's life; there would hardly be a life without it. The will she forged in the long struggle to integrate her existence is not easily broken by media exposure, and when the glare fades Renee settles into a successful and apparently fulfilling career in medicine (a crawl before the credits says she has an office on Park Avenue) and in tennis (she won important tournaments and coached Martina Navratilova, who has also pulled herself out of tough sets with the gende wardens).

Match point? Not quite. In real life Renee Richards's quest for identity mus continue because gender can never b detached from behavior. Like man transsexuals, Richards at first overcom pensated for her lost security by adoptin the most clichéd manners of her new per sona. I interviewed her once in Nev York, just after she re-entered the tenni set. It was in the mid-1970s, at a tim when the tokens of female behavior wer under attack by feminism. Gender libera tion demanded that women discard th imposed patterns of oppression and in vent new styles of presentation derive from their own souls and selves. Richard believed she could not afford the luxur of self-invention, that she had to assum the old patterns—the walking, the dress ing, the small courtesies and subtle defer ences of conventional femininity—i order to gain the social acceptance tha would confirm her transformation. N androgyne, Renee Richards's end wa as a woman, and in that case she wa obliged to play the cards of identity i the game of gender. □

MUSIC.

PETER WATROUS

American Jazz Orchestra

Pianist Red Garland's last tw choruses on Miles Davis' "Straight, No Chaser" (1958 are a harmonized transcrip tion of a lovely, faltering solo Davis hac played with Charlie Parker ten years earlier. It's an inside joke, an offhanc tribute that's not especially original since jazz musicians have always lugged around their favorite solos. But it's loaded with significance. By handing it back to Davis—the two choruses climax Garland's solo—he argues that what was good then still has its place today. And by orchestrating the solo, he validates an idea many jazz musicians hold sacred: that the spontaneous ordering of time known as improvisation creates pieces of music which bear further interpretation and even repetition.

Garland would have been pleased with the American Jazz Orchestra, an

Peter Watrous is a freelance music critic whose pieces have appeared in The Village Voice, Vogue *and elsewhere.*

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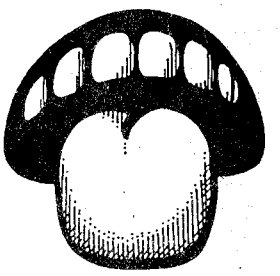
organization founded last May to keep in repertory the masterpieces of American music which have accumulated during the seventy or so years of jazz history. Housed in Cooper Union's Great Hall in New York City, the orchestra, brainchild of critic, author and lecturer Gary Giddins, is set up with the same structure and intent as the classical symphony orchestras that dot America's cultural landscape, except for one thing—it's the only one of its kind. The band's twenty-one members have had to prove their worth as both sight readers and improvisers in auditions and rehearsals. The A.J.O. plans four concerts a year; the first of these took place May 12 and it hopes to have three more in the summer and fall. Guest conductors and soloists will be announced, and new pieces—including one by Henry Threadgill, one of America's most idiosyncratic and gifted composers—have already been commissioned.

In its own reserved and undogmatic way, the A.J.O. is up to some subversion. It puts the squeeze on the notion that the European musical tradition is America's classical music, though this is not one of its stated intentions. By going about its business presenting compositions by Duke Ellington, Charles Mingus or Fletcher Henderson as the great music most of us know it is, and by allowing the necessary rehearsal time to get the pieces right, the A.J.O., in Giddins's words, "reclaims and refurbishes seventy years of indigenous music," as well as bringing jazz out of the shadow of marginality. It is hard to believe, but in 1986 jazz still doesn't have sufficient cultural legitimacy to make financial support for a worthy enterprise like the A.J.O. easy to come by. "When [Vladimir] Horowitz was broadcast live from Moscow," comments Giddins dryly, "all these companies were bragging about how important it is for industry to contribute to the arts; some of those same industries turned us down. They wouldn't support jazz."

One of jazz's revolutions was in the area of sound: it produced uniquely American timbres and textures whose implications still haven't been fully explored. Whether it was the braying of a trumpet section, the almost unendurable richness of the Ellington reed section or the languid sensuality of Lester Young's saxophone, jazz introduced a whole new musical vocabulary of emotion and meaning. And those sounds don't always come across well on old 78s. By performing the music live and capturing the sonic majesty of the original orchestras, the A.J.O. rescues jazz from the turntable and restores some of its original context.

The idea of a jazz repertory isn't new. In 1973, jazz entrepreneur George Wein started the New York Jazz Repertory Company as a showcase for everything from massive orchestrations of John Coltrane solos to Fletcher Henderson tributes and the rock experimentations of Gil Evans. That same year, bassist Chuck Israels formed the National Jazz Ensemble to rework classic themes, and in Boston, Gunther Schuller added Ellington to the repertory of the New England Conservatory. None of these projects survived. Not only were Ellington and Basie themselves still alive and active but the concerts were not entirely successful; in any case, jazz was still in the grip of the experimental. But things have changed—the music has now entered a period of consolidation after a decade of fertile pluralism. There's a new generation of young jazz musicians rethinking their relationship to the music's tradition. And during the past five years or so bands devoted to the music of specific composers (the group Sphere, for instance, plays the music of Thelonious Monk; and Philly Joe Jones's Dameronia carries on the small-orchestra sound of composer Tadd Dameron) have warmed up the idea of a repertory movement. But most important, the growing interest in jazz composition and orchestration means that A.J.O. isn't likely to become a cultural casualty.

It's even heartening that A.J.O. can start an argument—something that's been nearly impossible during the past ten years of tolerant pluralism. Its detractors claim we don't need Essentially Ellington or Mostly Monk concerts, that the very idea of jazz means forever moving forward and that institutionalization of the music will make it as moribund as European classical music. Those objections might make sense if the A.J.O. were set up like a Dixieland group to play the White House or if it were the only game in town. But its conception avoids all taint of nostalgia or anachronism. At its first concert, at Cooper Union, it tore through pieces by Henderson, Ellington (including the obscure, impressionistic masterpiece "Tone Parallel to Harlem"), Jimmie Lunceford and Count Basie, ending with an arrangement by Slide Hampton of Dizzy Gillespie's "Shaw Nuff" and "Anthropol-



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ogy." After a standing ovation, the band launched into Ellington's "Rockin' in Rhythm." The whole feeling of the performance was celebratory, as if everyone were saying, "Look what we have here. Isn't this wonderful music?" The playing was impeccable, with every note of Ellington's "Concerto for Cootie," for instance, resplendently produced by the orchestra and by trumpeter Virgil Jones. Striking the perfect balance between repertory and improvisation, Hamiett Bluiett, the most commanding baritone saxophonist alive and a musician associated with the avant-garde, drove through Jack Washington's original first chorus on "Jive at Five" and then, darting in and out of the harmony, pulled off a triumph of a solo, melding a 1980s interpretation of history with history itself. □

LETTERS.

(*Continued From Page 778*)

American foreign policy, present and past.

Margaret Halsey

SELECTIVE LOYALTY

Vancouver, Canada

I was delighted to see Norman Podhoretz and Midge Decter get their comeuppance in Gore Vidal's acerbic commentary, but I found some of his arguments disquieting. As a third-generation Canadian who has heard the "Why don't you go back to . . ." refrain too often, I found it difficult to treat Vidal's "dual loyalty" argument with equanimity. At best it is a double-edged sword, wrapped in ambiguity. In the case of the Podhoretz crowd, I think the argument is demonstrably wrong.

I would ask Vidal simply to imagine what would be the reaction of the "Israel right or wrong" bunch if, by some quirk of fate, Israel elected a government firmly committed to a neutralist foreign policy or even, God forbid, a truly socialist domestic policy? I have no doubt that they would follow their instincts of class solidarity, their ideological affinities and their unerring sense about which side of the bread has the most butter. They would opt, without a moment's hesitation, for the Benighted States of Hysterica and Uncle Ronnie Raygun.

While disagreeing with some of Vidal's formulations, I welcome the ensuing debate, which may promote some second thoughts by all of us—including Gore Vidal.

Henry Rosenthal
Co-editor, Outlook

'SOPHISTIC CAMOUFLAGE'

New York City

The "Editors' Note" on April 26 explaining that Gore Vidal's anti-Semitic article was in fact an ironical essay designed to provoke serious discussion about the prospects for a peaceful resolution of Middle East conflict is a bit of sophistic camouflage. If your purpose in printing it was indeed to provoke balanced discussion, then I would have to say that you show a gross contempt and disregard for the intelligence of your readers by having to trick them into dialogue.

In fact, it is possible to discuss these issues seriously if you are prepared to face answers honestly. I agree with you that not every Gentile who criticizes Israel or American Jewry is anti-Semitic, nor is every Jew who does so self-hating; but many are, and the circumstances must be faced honestly.

Those of us who support Israel, advocate its cause and defend its good name of course recognize that Israel is not perfect, that human rights and civil liberties issues exist and are appropriate for discussion in a fair context. On that last point is the rub. So often those discussions are presented in such an unfair context that it involves a journalistic mugging of an embattled, small country, lacking in friends and surviving despite the intractable xenophobia of tens of millions of sworn enemy neighbors.

When those circumstances are forgotten or ignored, debate about human rights and civil liberties in Israel takes on a surrealistic tinge and often reveals the critics as unbalanced in their views or biased in their political or personal motivations.

Kenneth J. Bialkin
Chair, Conference of Presidents of Major American Jewish Organizations.

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L	I	T	E	R	A	L		S	U	B	S	I	D	E
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A	L	O	N	G	S	I	D	E		A	L	O	O	F
N		W		A				R		T		U		E
D	E	N	O	T	E	S		I	D	I	O	T	I	C
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O	U	T	D	O	O	R		S	E	A	L	A	N	E
N		E		N		I				L		R		X
D	O	R	I	C		B	A	L	A	L	A	I	K	A
E		R		A		B		A		E		O		M
C	H	A	N	N	E	L		D	R	A	W	S	U	P
K		C		A		E		E		V		T		L
	S	E	A	L	E	D	E	N	V	E	L	O	P	E

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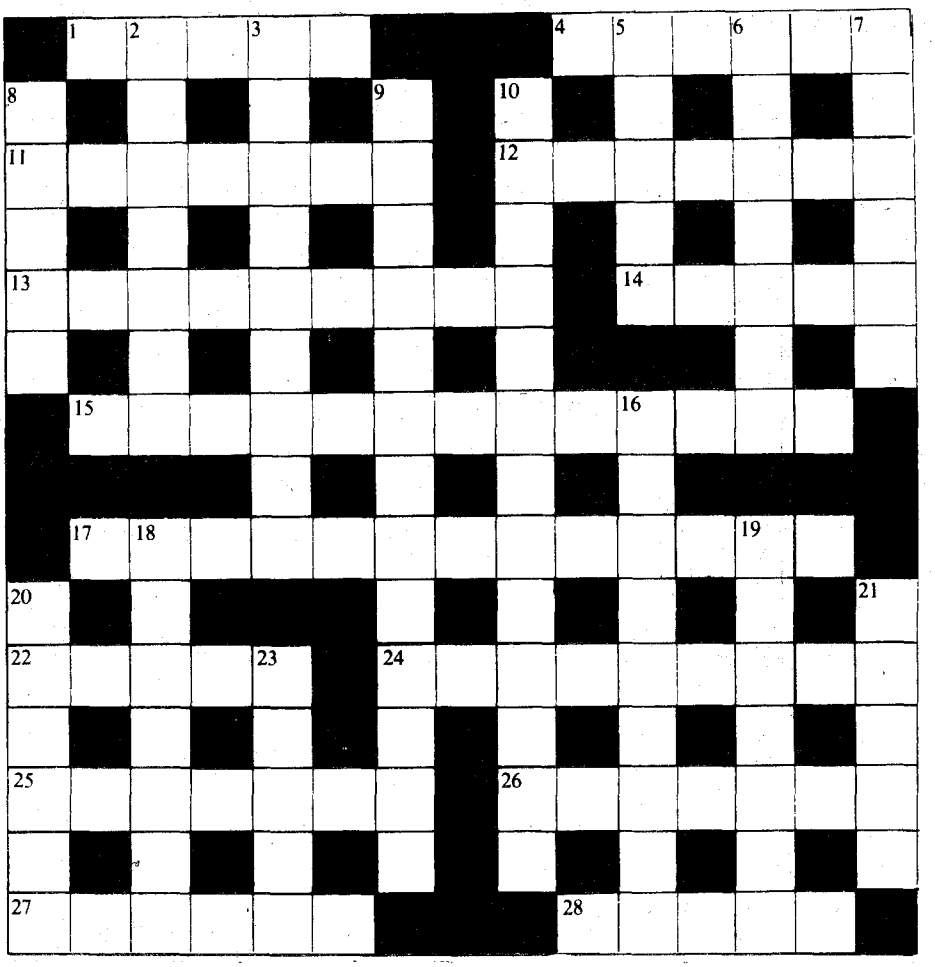
FRANK W. LEWIS



ACROSS

1 and 25 Such an incident might be remembered because celery (but not a young starter) might be cultivated here. (5,7)
4 See 28 across
11 Such a construction might be familiar to an oriental, or one sort of magi. (7)
12 Old religious person associated with a Southern California clock? (7)
13 A way one fasted? One such wouldn't hear of it! (5-4)
14 Sometimes taken with conviction. (5)
15 What one might have done in coming from Gloucester on a wet day, assuming Foster was traveling. (One might have been a philosopher, too.) (13)
17 March out at first, with a couple to allow something like jewelry. (5,8)
22 See 8 down
24 Is all blue, as the sort associated with the nursery, perhaps. (9)
25 See 1
26 One wanted a companion to proceed at a more rapid pace, according to Carroll. (7)
27 Such a musical offering might have less feeling. (6)
28 and 4 One of them would certainly not be considered upright, though you'll see a thousand commonly in soap sculpture. (5,6)

SEE LAST WEEK'S SOLUTION AT LEFT

DOWN

2 Notice one posture? It's too filled out! (7)
3 A musical exposition? (Say "pretty"!) (5,4)
5 A literary example of 7, found in strict usage. (5)
6 It's peculiar, but India has a Greek letter coming up inside another area. (7)
7 If you have an accent, you might suffer from it. (6)
8 and 22 across A ringer in such competition might not be unexpected. (Smith used to consider them a put-on.) (10)
9 When we don't like something, we're occasionally advised to do so, and with a little ammunition, there's something to chew on. (4,3,6)
10 Clifford, as they say, starts peristalsis and gets the bird more than once. (5,8)
16 Such a knightly type certainly should have an 8. (9)
18 Such a criminal type might easily do away with Lum, and be recognized as such. (7)
19 Leo is in bad way, but the above criminal might stand it. (7)
20 After smoking, what is able to fit in the tray? (You might put it out regularly for the collection.) (6)
21 If you're considering the country, it's well over two hundred. (That's the way we do things!) (5)
23 The island's coming up with black, obviously. (5)

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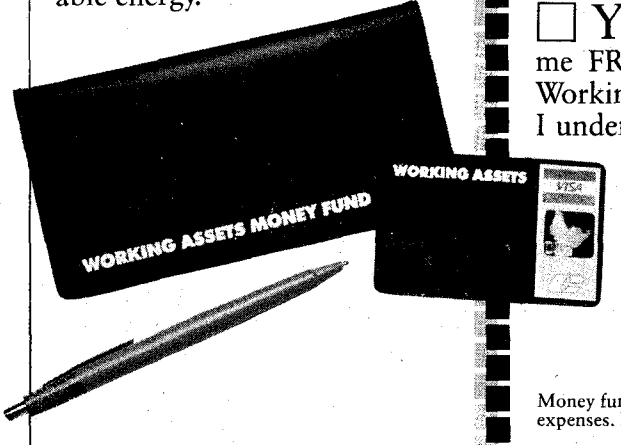

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[1] *Forbes,* September 16, 1985. (General category.)

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